



BOARD OF TRUSTEES

Thursday, January 13, 2022 at 5:00 PM

Tri-Lakes Chamber House, 300 Hwy 105, Monument

In-person

AGENDA

This agenda is subject to revision 24 hours prior to commencement of the meeting.

Call to Order

Pledge of Allegiance

Roll Call

Consent Agenda

Items under the consent agenda may be acted upon by one motion. If, in the judgment of a board member, a consent agenda item requires discussion, the item can be placed on the regular agenda for discussion and/or action.

- [1.](#) Minutes from December 9, 2021 Meeting
- [2.](#) Financials (November)
3. Checks over \$15,000 - TN Parker (\$64,061.40); Wells & West (\$44,202.04)
- [4.](#) Resolution 1-2022 Designating Posting Location
- [5.](#) Resolution 2-2022 Appointing Town Officers

Staff/Department Reports

- [6.](#) Water
- [7.](#) Public Works including Roads & Parks
- [8.](#) Police
- [9.](#) Fire
- [10.](#) Administration
11. Attorney
12. Administrator/Clerk

Public Comment

Public comments are encouraged to be emailed to the Town office at info@palmerlake.org with subject line of Public Comment (48 hour prior to meeting) and shall be announced, distributed, and addressed at the meeting. Otherwise, please step to the microphone, state your name and address for the record and address the Board on matters not on the agenda. Please note that the Board will not take action on your concern but may refer it to staff and/or to a future meeting agenda. Public members are allowed up to 3 minutes for comments. Thank you!

Business Items

- [13.](#) Ordinance 15-2021 Granting Franchise Agreement with Black Hills - Final Reading
- [14.](#) Resolution 3-2022 to Authorize IGA for Palmer Lake Elementary Improvement Project
- [15.](#) Resolution 4-2022 to Authorize Signature to 2021 MS4 Annual Report
- [16.](#) Resolution 5-2022 to Approve Residential Well Agreement (Brenneman, Hwy 105)
- [17.](#) Review of Improved Water Billing
- [18.](#) Review of 2022 Master Fee Schedule
- [19.](#) Review of De-annexation Process, Set Public Hearing

Board Reports**Next Meeting (Jan 27th, Chamber Community Room, 2nd St) and Future Items****Convene to Executive Session**

Pursuant to C.R.S. 24-6-402(4)(b) conferences with Town Attorney for the purpose of receiving legal advise on specific legal questions – use of undeveloped right of way.

Reconvene to Open Session**Adjourn**

Americans with Disabilities Act

Reasonable accommodations for persons with a disability will be made upon request. Please notify the Town of Palmer Lake (at 719-481-2953) at least 48 hours in advance. The Town of Palmer Lake will make every effort to accommodate the needs of the public.



BOARD OF TRUSTEES

Thursday, December 09, 2021 at 5:00 PM

Tri-Lakes Chamber House, 300 Hwy 105, Monument

MINUTES

Call to Order. Mayor Bass called the meeting to order at 5 PM.

Pledge of Allegiance

Roll Call. Present: Mayor Bill Bass; Trustees Darin Dawson, Jessica Farr, Sam Padgett, Nicole Currier, Glant Havenar, Karen Stuth.

Introductions/Presentations

1. Introduction of New Business - Lifepoint Medical Consultants LLC (Hwy 105). Reschedule to a January meeting.

Consent Agenda

MOTION (Padgett, Farr) to approve the consent agenda including items:

2) Minutes from November 18, 2021 Meeting and 3) Checks over \$15,000 - TN Parker (\$91,324.76).

Roll call vote – aye (7); nay (0). Motion passed.

Staff/Department Reports

4) Water; 5) Public Works including Roads & Park Maintenance; 6) Police; 7) Fire; 8) Administration - provided in the packet. 9) Attorney – no report.

10) Administrator/Clerk – update of ramp project to be completed about Christmas and library personnel reviewing a draft of the lease agreement; town hall roof restoration is completed and additional projects will be reviewed for funding (ADA compliance, kitchen update). The power upgrade and electrical work are in planning. The Master Plan scope of services was modified and will go to the Planning Commission for authorization on 12/15. The survey is anticipated to be ready mid January. Residential well discussion is continuing with the state; upcoming events through December were presented.

Trustee Havenar mentioned the north pole mailbox for letters to Santa.

Public Comment

None made.

Public Hearing

11. PUBLIC HEARING to Consider Rezoning Request (R1 to RA). No person spoke against the rezoning. Mayor Bass closed the hearing.

Business Items

12. Ordinance 14-2021 to Rezone Parcel from R1 to RA. Mr. Brenneman was present for questions. MOTION (Stuth, Havenar) to approve Ordinance 14-2021 to rezone property to RA. Roll call vote – aye (7); nay (0). Motion passed.
13. Ordinance 15-2021 to Grant Franchise Agreement with Black Hills Energy - 1st Reading. Attorney Krob provided background for required readings. MOTION (Padgett, Farr) to waive full reading. Motion passed. Trustee Havenar raised concern about leaving poles for utilities. This agreement provides authorized use of ROW for gas line. MOTION (Stuth, Dawson) to pass Ordinance 15-2021 first reading for franchise agreement. Roll call vote – aye (6); nay (1-Havenar). Motion passed.
14. Ordinance 12-2021 to Create Section 5.10 Short Term Rentals. Discussion took place about the cap and background was reviewed for few public members. Mr. George Blake inquired about any issues. Mr Gordon, Brenda Woodworth and John Russell inquired about the changes. Trustee Farr explained the need for managing commercial activity in residential zoning of the Town. Staff stated that a new application packet will be created and provided in January. MOTION (Stuth, Padgett) to approve Ordinance 12-2021 creating short term rental code criteria. Roll call vote – aye (7); nay (0). Motion passed.
15. Ordinance 13-2021 to Repeal and Replace Chapter 5.02 of Municipal Code Relating to Business Licenses. Review of the procedure for business license renewals took place. MOTION (Farr, Stuth) to approve Ordinance 13-2021 to replace section 5.02. Roll call vote – aye (7); nay (0). Motion passed.
16. Resolution 54-2021 to Extend Conditional Use – Fletchers. Mr. Fletcher addressed the Board on what has taken place and what heavy equipment remains on his property. Discussion took place about the length of time recommended by the Planning Commission. MOTION (Dawson, Farr) to approve Resolution 54 with a 6-month extension. Roll call vote – aye (3); nay (4 – Padgett, Currier, Havenar, Stuth). Motion failed. Discussion to amend the timeframe took place. MOTION (Padgett, Stuth) to amend the resolution to 3 months and approve the extension. Roll call vote – aye (6); nay (1 - Farr). Motion passed.
17. Resolution 55-2021 to Authorize Green & Associates (Financial Audit 2022). MOTION (Currier, Havenar) to approve Resolution 55-2021 to authorize agreement with Green & Associates. Roll call vote – aye (7); nay (0). Motion passed.
18. Resolution 56-2021 to Consider and Adopt 2022 Town Budget. Review of the budget took place. MOTION (Stuth, Dawson) to approve Resolution 56-2021 to adopt the 2022 Town Budget. Roll call vote – aye (4); nay (3 – Farr, Currier, Havenar). Motion passed.
19. Consideration of PD Request for Training at Elephant Rock. Staff requested use of the property for live action, scenario based training with area agencies. Concerns were raised and Chief Vanderpool assured the Board of the care they will take, including recommended action from CIRSA. MOTION (Havenar, Stuth) to allow the training with recommendations. Roll call vote – aye (5); nay (2 – Farr, Currier). Motion passed.

Board Reports. Trustee Stuth explained the status of PLEDG (Palmer Lake Economic Development Group) activity and anticipate a presentation to the Board by February.

Next Meeting (January 13) and Future Items. Dates were discussed for retreat time to discussion the elephant rock property and revenue plans. Dates of 1/21 and 2/4 were agreed to beginning at noon.

Convene to Executive Session.

Pursuant to 24-6-402(4)(b) C.R.S., conference with an attorney for the purpose of receiving legal advice on specific legal questions (penalty for non-compliance) MOTION (Currier, Stuth) to convene to executive session. Roll call vote – aye (7); nay (0). Motion passed.

Reconvene to Open Session and Adjourn. MOTION (Farr, Padgett) to reconvene to adjourn at 6:49PM.

Roll call vote – aye (7); nay (0). Motion passed.

William Bass, Mayor

Dawn A. Collins, Town Clerk

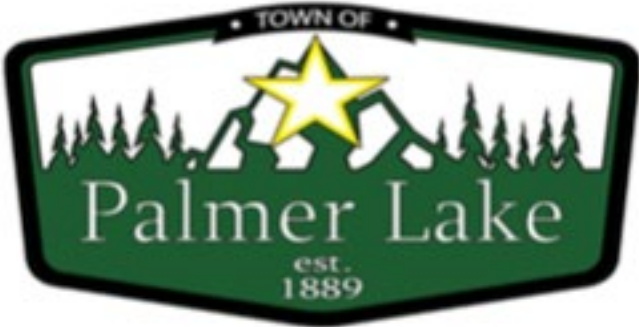
Date

TOWN OF PALMER LAKE
Financial Statements
November 2021
Unaudited



CASH POSITION

November 30, 2021



TOWN OF PALMER LAKE

Schedule of Cash Position

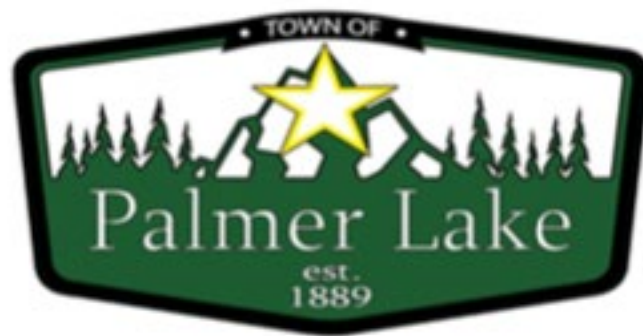
November 30, 2021

UNAUDITED

<u>FINANCIAL INSTITUTION</u>			<u>RATE</u>	<u>FUNDS</u>
CoBank - General Operating			n/a	\$ 1,091,706
CoBank - Water Operating			n/a	\$ 986,333
ColoTrust - General Fund			0.03%	\$ 976,939
ColoTrust - Water Reserve			0.03%	\$ 177,310
ColoTrust - Water Loan Reserve			0.03%	\$ 197,493
ColoTrust - Police CIP Reserve			0.03%	\$ 7
ColoTrust - Fire Fund			0.03%	\$ 105,454
ColoTrust - CTF Reserves			0.03%	\$ 27,084
Total - Cash Accounts				\$3,562,326

GENERAL FUND

November 2021



TOWN OF PALMER LAKE

GENERAL FUND

Budget Status Report - GAAP Basis
For the Eleven Months Ending November 30, 2021

Item 2.

Unaudited

		2021	YTD	Variance	Percent
		Budget	Actual	(Unfavorable)	of Budget
Account Number	REVENUE				(YTD 92%)
10-10-2110-000	General Property Tax	\$ 431,070	\$ 432,133	\$ 1,063	100%
10-10-2112-000	Fire Mill Levy Property Tax	383,582	383,212	(370)	100%
10-10-2120-000	Specific Own Tax Auto / Use Tax Motor Vehicle	95,000	115,977	20,977	122%
10-10-2124-000	Use Tax Building Materials	50,000	32,124	(17,876)	64%
10-10-2126-000	Highway Users Tax Fund	89,605	99,043	9,438	111%
10-10-2128-000	Administration Fees	-	1	1	0%
10-10-2130-000	City Sales Tax	600,000	1,004,035	404,035	167%
10-10-2131-000	Tax- Other	-	6,340	6,340	0%
10-10-2136-000	Fees / Permits / Zoning / Subdivision Fees	40,000	69,350	29,350	173%
10-10-2138-000	Business Licenses Fees	7,000	7,895	895	113%
10-10-2142-000	Franchise Tax- IREA	39,000	42,595	3,595	109%
10-10-2144-000	Franchise Tax- Black Hills	35,000	25,491	(9,509)	73%
10-10-2146-000	Franchise Tax- Century Link	1,300	864	(436)	66%
10-10-2147-000	Franchise Tax- Comcast/ Other	44,609	28,521	(16,088)	64%
10-10-2150-000	MMJ / Liquor License Fees	6,500	6,751	251	104%
10-10-2152-000	Tobacco Products Tax	18,200	9,481	(8,719)	52%
10-10-2156-000	Hotel Occupancy Tax	30,000	19,072	(10,928)	64%
10-10-2160-000	Land / Building Rents	5,000	7,983	2,983	160%
10-10-2164-000	Court Fines	50,000	87,770	37,770	176%
10-10-2166-000	Town OJW Surcharge	900	-	(900)	0%
10-10-2167-000	State OJW Surcharge	900	-	(900)	0%
10-10-2168-000	Savings / Interest	2,000	466	(1,534)	23%
10-10-2170-000	Miscellaneous Income	1,000	540	(460)	54%
10-10-2172-000	Insurance Income	-	7,269	7,269	0%
10-10-2184-000	Impact Fees / Drainage	5,000	11,110	6,110	222%
10-10-2186-000	FPPA Matching Funds	8,000	-	(8,000)	0%
10-10-2188-000	El Paso Co Road & Bridge	5,500	6,320	820	115%
10-10-2194-000	Library Revenue	12,000	2,304	(9,696)	19%
10-10-2195-000	Police Surcharge	10,000	-	(10,000)	0%
10-10-3685-000	ATL Revenue	24,270	2,500	(21,770)	10%
10-10-2250-003	COVID Employer Tax Credit	-	872	872	0%
10-19-2320-000	Interest- Loan to Water Fund	10,000	5,000	(5,000)	50%
10-19-2322-000	Fund Reserve- ColoTrust	728,539	-	(728,539)	0%
10-10-3621-000	Admin Revenue	-	503	503	0%
10-10-3631-000	Police Revenue	-	-	-	0%
10-10-3680-000	Parks Revenue	-	-	-	0%
10-19-2322-000	Interest	-	1,534	1,534	0%
	Total Revenue	\$ 2,733,975	\$ 2,417,055	\$ (316,920)	88%
	EXPENDITURES				
	General and Administrative				
	<u>Salaries and Benefits</u>				
10-21-3111-000	Salaries / Wages Regular	\$ 103,330	\$ 101,895	\$ 1,435	99%
10-21-3112-000	Salaries / Wages Temp / Part Time	35,000	50,092	(15,092)	143%
10-21-3115-000	Overtime	1,000	162	838	16%
10-21-3119-000	Employer Taxes	7,925	11,713	(3,788)	148%
10-21-3124-000	Sick Leave	4,100	1,189	2,911	29%
10-21-3125-000	Employee Retirement Benefits	7,200	14,594	(7,394)	203%
10-21-3127-000	Insurance Premiums	6,720	510	6,210	8%
10-21-3131-000	Workers Compensation	6,000	6,897	(897)	115%
	Total Salaries and Benefits	\$ 171,275	\$ 187,053	\$ (15,778)	109%
	<u>Professional Services</u>				
10-21-3161-000	Professional Services- Legal	\$ 50,000	\$ 32,681	\$ 17,320	65%
10-21-3162-000	Professional Services- Acctg/Audit	25,000	27,627	(2,627)	111%
10-21-3163-000	Professional Services- Other	28,000	67,460	(39,460)	241%
10-21-3164-000	Professional Services- IT	30,000	15,254	14,746	51%
	Total Professional Services	\$ 133,000	\$ 143,021	\$ (10,021)	108%

TOWN OF PALMER LAKE

GENERAL FUND

Budget Status Report - GAAP Basis
For the Eleven Months Ending November 30, 2021

Item 2.

Unaudited

		2021	YTD	Variance	Percent
		Budget	Actual	Favorable (Unfavorable)	of Budget (YTD 92%)
	<u>General Administration</u>				
10-21-3141-000	Employee Clothing	\$ 800	\$ -	\$ 800	0%
10-21-3145-000	Employee/ BOT Training	4,000	1,573	2,427	39%
10-21-3149-000	Employee/ BOT Travel	2,000	-	2,000	0%
10-21-3151-000	Employee/ BOT Per Diem	2,000	957	1,043	48%
10-21-3153-000	Memberships / Registrations	6,000	7,736	(1,736)	129%
10-21-3169-000	Bank Fees and Services	600	153	447	25%
10-21-3170-000	State OJW Surcharge	900	-	900	0%
10-21-3211-000	General (Contract) Services	20,000	20,843	(843)	104%
10-21-3223-000	Operating Supplies	20,000	5,822	14,178	29%
10-21-3225-000	Building Maintenance	10,000	881	9,119	9%
10-21-3245-000	Utilities	18,900	15,041	3,859	80%
10-21-3253-000	Postage	2,000	1,711	289	86%
10-21-3275-000	Fuel	500	246	254	49%
10-21-3281-000	Insurance	20,000	30,600	(10,600)	153%
10-21-3291-000	Capital Improvement Bldg	10,000	-	10,000	0%
10-21-3292-000	Capital Improvement Bldg- Other	500,000	355,414	144,586	71%
10-21-3293-000	Capital Equipment	1,000	-	1,000	0%
10-21-3313-000	Equipment Maintenance	1,000	-	1,000	0%
10-21-3333-000	Legal Notices / Recordings	5,000	4,115	885	82%
10-21-3338-000	Communication	3,500	4,053	(553)	116%
10-21-3365-000	Advertising	500	1,780	(1,280)	356%
10-21-3391-000	Misc. Expenses	-	6,782	(6,782)	0%
10-21-3392-000	County Treasurer Fees	10,000	8,169	1,831	82%
10-21-3513-000	Economic Development	2,200	1,020	1,180	46%
	Total General Administration	\$ 640,900	\$ 466,896	\$ 174,004	73%
	Total General Administrative Expenditures	\$ 945,175	\$ 796,970	\$ 148,205	84%
	<u>Operations</u>				
	<u>Police Department Expenditures</u>				
	<u>Salaries and Benefits- Police Department</u>				
10-31-3111-000	Salaries / Wages Regular	\$ 157,564	\$ 140,521	\$ 17,043	89%
10-31-3112-000	Salaries / Wages Temp/Part-time	261,375	238,300	23,075	91%
10-31-3115-000	Overtime	1,000	2,271	(1,271)	227%
10-31-3119-000	Employer Taxes	22,167	22,279	(112)	101%
10-31-3123-000	FPPA	10,335	10,548	(213)	102%
10-31-3124-000	Sick Leave	7,650	190	7,460	2%
10-31-3125-000	Employee Benefits	9,450	7,021	2,429	74%
10-31-3127-000	Insurance Premiums	20	277	(257)	1387%
10-31-3131-000	Workers Compensation	18,000	24,200	(6,200)	134%
10-31-3133-000	FPPA Death + Disability	3,620	3,328	293	92%
	Total Salaries and Benefits- Police Department	\$ 491,181	\$ 448,936	\$ 42,245	91%
	<u>Professional Services- Police Department</u>				
10-31-3161-000	Professional Services- Legal	\$ 1,000	\$ 2,000	\$ (1,000)	200%
10-31-3162-000	Professional Services- Acctg/Audit	8,200	8,200	-	100%
10-31-3164-000	Professional Services- IT	8,000	7,355	645	92%
	Total Professional Services- Police Department	\$ 17,200	\$ 17,555	\$ (355)	102%
	<u>General Administration- Police Department</u>				
10-31-3141-000	Employee Clothing / Uniform	\$ 7,000	\$ 3,982	\$ 3,018	57%
10-31-3145-000	Employee Training	2,000	2,051	(51)	103%
10-31-3149-000	Employee Travel	750	412	338	55%
10-31-3151-000	Employee Per Diem	200	-	200	0%
10-31-3153-000	Memberships / Registrations	500	265	235	53%
10-31-3211-000	General (Contract) Services	1,500	8,910	(7,410)	594%
10-31-3223-000	Operating Supplies	4,000	2,597	1,403	65%
10-31-3225-000	Building Maintenance	5,000	4,620	380	92%
10-31-3226-000	Repair / Maintenance Supplies	1,000	-	1,000	0%
10-31-3245-000	Utilities	5,500	5,143	357	94%
10-31-3253-000	Postage	120	-	120	0%

TOWN OF PALMER LAKE

GENERAL FUND

Budget Status Report - GAAP Basis
For the Eleven Months Ending November 30, 2021

Item 2.

Unaudited

		2021	YTD	Variance	Percent
		Budget	Actual	Favorable (Unfavorable)	of Budget (YTD 92%)
10-31-3276-000	Vehicle Loan- Principal	16,418	6,216	10,202	38%
10-31-3277-000	Vehicle Loan- Interest	2,598	1,821	777	70%
10-31-3271-000	Vehicle Repair / Maint	11,000	7,645	3,355	69%
10-31-3275-000	Fuel	11,000	13,127	(2,127)	119%
10-31-3281-000	Insurance	14,000	11,884	2,116	85%
10-31-3293-000	Capital Equipment	5,000	8,842	(3,842)	177%
10-31-3313-000	Equipment Maintenance	500	23	477	5%
10-31-3338-000	Communication	7,600	12,376	(4,776)	163%
10-31-3393-000	Subject Testing	500	680	(180)	136%
10-31-3523-000	Grants Expense	-	38,754	(38,754)	0%
	Total General Administration- Police Department	\$ 96,186	\$ 129,348	\$ (33,162)	134%
	Total Police Department Expenditures	\$ 604,567	\$ 595,840	\$ 8,727	99%
	<u>Fire Department Expenditures</u>				
	<u>Salaries and Benefits- Fire Department</u>				
10-41-3111-000	Salaries / Wages Regular	\$ 278,600	\$ 241,174	\$ 37,426	87%
10-41-3112-000	Salaries / Wages Temp/Part-time	61,000	60,621	379	99%
10-41-3115-000	Overtime	18,000	18,346	(346)	102%
10-41-3119-000	Employer Taxes	6,840	10,693	(3,853)	156%
10-41-3123-000	FPPA	40,000	29,015	10,985	73%
10-41-3124-000	Sick Leave	3,700	-	3,700	0%
10-41-3125-000	Employee Benefits	16,000	20,096	(4,096)	126%
10-41-3127-000	Insurance Premiums	734	813	(79)	111%
10-41-3131-000	Workers Compensation	15,000	20,135	(5,135)	134%
10-41-3133-000	FPPA Death + Disability	6,500	6,685	(185)	103%
	Total Salaries and Benefits- Fire Department	\$ 446,374	\$ 407,578	\$ 38,796	91%
	<u>Professional Services- Fire Department</u>				
10-41-3161-000	Professional Services- Legal	\$ 1,000	\$ 1,000	\$ -	100%
10-41-3162-000	Professional Services- Acctg/Audit	8,200	8,200	-	100%
10-41-3164-000	Professional Services- IT	8,000	10,821	(2,821)	135%
	Total Professional Services- Fire Department	\$ 17,200	\$ 20,021	\$ (2,821)	116%
	<u>General Administration- Fire Department</u>				
10-41-3141-000	Employee Clothing / Uniform	\$ 6,000	\$ 4,516	\$ 1,484	75%
10-41-3145-000	Employee Training	3,500	1,296	2,204	37%
10-41-3151-000	Employee Per Diem	-	1,493	(1,493)	0%
10-41-3153-000	Memberships / Registrations	1,000	785	215	79%
10-41-3211-000	General (Contract) Services	15,000	7,612	7,388	51%
10-41-3223-000	Operating Supplies	8,000	3,427	4,573	43%
10-41-3225-000	Building Maintenance	5,000	3,313	1,687	66%
10-41-3226-000	Repair / Maintenance Supplies	1,000	1,884	(884)	188%
10-41-3245-000	Utilities	6,800	2,939	3,861	43%
10-41-3253-000	Postage	250	118	132	47%
10-41-3271-000	Vehicle Repair / Maint	15,000	15,166	(166)	101%
10-41-3275-000	Fuel	5,000	5,500	(500)	110%
10-41-3281-000	Insurance	16,500	18,290	(1,790)	111%
10-41-3293-000	Capital Equipment	-	43,220	(43,220)	0%
10-41-3313-000	Equipment Maintenance	1,000	301	699	30%
10-41-3338-000	Communication	6,100	11,550	(5,450)	189%
10-41-3351-000	Medical Equip / Supplies	3,000	3,921	(921)	131%
10-41-3391-000	Misc. Expenses	-	1	(1)	0%
10-41-3523-000	Grants Expense	-	15,365	(15,365)	0%
	Total General Administration- Fire Department	\$ 93,150	\$ 140,696	\$ (47,546)	151%
	Total Fire Department Expenditures	\$ 556,724	\$ 568,295	\$ (11,571)	102%

TOWN OF PALMER LAKE

GENERAL FUND

Budget Status Report - GAAP Basis
For the Eleven Months Ending November 30, 2021

Item 2.

Unaudited

		2021	YTD	Variance	Percent
		Budget	Actual	Favorable (Unfavorable)	of Budget (YTD 92%)
<u>Roads Department Expenditures</u>					
<u>Salaries and Benefits- Roads Department</u>					
10-51-3111-000	Salaries / Wages Regular	\$ 142,000	\$ 125,234	\$ 16,766	88%
10-51-3115-000	Overtime	1,000	1,294	(294)	129%
10-51-3119-000	Employer Taxes	10,864	9,635	1,229	89%
10-51-3125-000	Employee Benefits	9,100	13,224	(4,124)	145%
10-51-3127-000	Insurance Premiums	880	324	556	37%
10-51-3131-000	Workers Compensation	13,000	16,330	(3,330)	126%
	Total Salaries and Benefits- Roads Department	\$ 176,844	\$ 166,042	\$ 10,802	94%
<u>Professional Services- Roads Department</u>					
10-51-3162-000	Professional Services- Acctg/Audit	\$ 8,200	\$ -	\$ 8,200	0%
10-51-3163-000	Professional Services- Other	8,000	19,917	(11,917)	249%
10-51-3163-001	Professional Services- MS4	10,000	18,141	(8,141)	181%
10-51-3163-002	Professional Services- Engineering	20,000	-	20,000	0%
10-51-3164-000	Professional Services- IT	4,000	5,693	(1,693)	142%
	Total Professional Services- Roads Department	\$ 50,200	\$ 43,751	\$ 6,449	87%
<u>General Administration- Roads Department</u>					
10-51-3141-000	Employee Clothing / Uniform	\$ 500	\$ 173	\$ 327	35%
10-51-3145-000	Employee Training	250	-	250	0%
10-51-3149-000	Employee Travel	250	-	250	0%
10-51-3153-000	Memberships / Registrations	1,066	779	287	73%
10-51-3211-000	General (Contract) Services	20,000	7,284	12,716	36%
10-51-3223-000	Operating Supplies	4,000	4,291	(291)	107%
10-51-3225-000	Building Maintenance	2,000	815	1,185	41%
10-51-3227-000	Road / Street Material	25,000	18,622	6,378	74%
10-51-3229-000	Sign Parts / Supplies	1,000	873	127	87%
10-51-3243-000	Street Lights	16,000	10,222	5,778	64%
10-51-3245-000	Utilities	8,000	4,766	3,234	60%
10-51-3253-000	Postage	-	1,842	(1,842)	0%
10-51-3276-000	Vehicle Loan- Principal	4,360	5,763	(1,403)	132%
10-51-3277-000	Vehicle Loan- Interest	2,174	1,686	488	78%
10-51-3271-000	Vehicle Repair / Maint	6,000	2,847	3,153	47%
10-51-3273-000	Heavy Equipment Repair	10,000	1,968	8,032	20%
10-51-3275-000	Fuel	15,000	9,257	5,743	62%
10-51-3281-000	Insurance	9,800	8,896	904	91%
10-51-3293-000	Capital Equipment	31,700	31,529	171	99%
10-51-3338-000	Communication	5,379	1,186	4,193	22%
10-51-3230-000	Dust Control	15,000	10,963	4,037	73%
10-51-3231-000	Culverts	3,500	-	3,500	0%
10-51-3295-000	Capital Improvement Roads	175,000	224,038	(49,038)	128%
10-51-3296-000	Capital Improvement- Drainage	3,000	-	3,000	0%
10-51-3296-003	Capital Improvement- MS4	2,000	-	2,000	0%
	Total General Administration- Roads Department	\$ 360,979	\$ 347,801	\$ 13,178	96%
	Total Roads Department Expenditures	\$ 588,023	\$ 557,593	\$ 30,430	95%
<u>Parks Department Expenditures</u>					
<u>Salaries and Benefits- Parks Department</u>					
10-80-3111-000	Salaries / Wages Regular	\$ -	\$ -	\$ -	0%
10-80-3112-000	Salaries / Wages Temp/Part-time	24,000	8,199	15,801	34%
10-80-3119-000	Employer Taxes	1,836	832	1,004	45%
10-80-3124-000	Sick Leave	900	-	900	0%
10-80-3125-000	Employee Benefits	900	-	900	0%
10-80-3131-000	Workers Compensation	900	1,111	(211)	123%
	Total Salaries and Benefits- Parks Department	\$ 28,536	\$ 10,142	\$ 18,394	36%

TOWN OF PALMER LAKE

GENERAL FUND

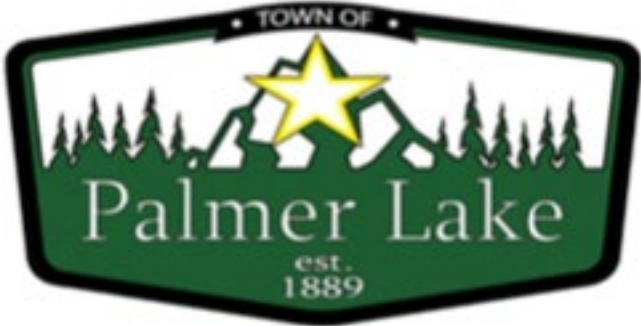
Budget Status Report - GAAP Basis
For the Eleven Months Ending November 30, 2021

Item 2.

Unaudited

		2021	YTD	Variance	Percent
		Budget	Actual	Favorable (Unfavorable)	of Budget (YTD 92%)
	<u>General Administration- Parks Department</u>				
10-80-3141-000	Employee Clothing / Uniform	\$ 200	\$ -	\$ 200	0%
10-80-3145-000	Employee Training	250	-	250	0%
10-80-3153-000	Memberships / Registrations	100	-	100	0%
10-80-3211-000	General (Contract) Services	3,000	12,500	(9,500)	417%
10-80-3223-000	Operating Supplies	3,500	2,207	1,293	63%
10-80-3226-000	Repair / Maint Supplies	250	-	250	0%
10-80-3245-000	Utilities	1,200	-	1,200	0%
10-80-3271-000	Vehicle Repair / Maint	300	40	260	13%
10-80-3275-000	Fuel	800	-	800	0%
10-80-3313-000	Equipment Maintenance	1,000	462	538	46%
10-80-3338-000	Communication	150	-	150	0%
10-80-3391-000	Misc. Expenses- Volunteers	200	341	(141)	171%
	Total General Administration- Parks Department	\$ 10,950	\$ 15,551	\$ (4,601)	142%
	Total Parks Department Expenditures	\$ 39,486	\$ 25,693	\$ 13,794	65%
	Total Operations	\$ 1,788,800	\$ 1,747,420	\$ 41,380	98%
	Total General Administrative and Operations	\$ 2,733,975	\$ 2,544,390	\$ 189,585	93%
	EXCESS OF REVENUE OVER (UNDER)				
	EXPENDITURES AND OTHER FINANCING USES	\$ -	\$ (127,336)	\$ (127,336)	

WATER ENTERPRISE FUND
November 2021



TOWN OF PALMER LAKE

WATER FUND

Budget Status Report - GAAP Basis

For the Eleven Months Ending November 30, 2021

Unaudited					
		2021	YTD	Variance	Percent
		Budget	Actual	Favorable (Unfavorable)	of Budget (YTD 92%)
Account Number	REVENUE				
20-19-2314-000	Water Tap Fees	\$ 200,000	\$ 188,250	\$ (11,750)	94%
20-19-2320-000	Water Revenue	990,000	883,171	(106,829)	89%
20-19-2322-000	Water Revenue Interest	4,600	87	(4,513)	2%
20-19-2324-000	Water Reserve Interest	4,200	78	(4,122)	2%
20-19-2325-000	Water Reserve Colo Trust	345,147	-	(345,147)	0%
20-19-2326-000	Water Meter Sales / Parts	6,500	2,163	(4,337)	33%
20-19-2328-000	Surcharge	-	-	-	0%
20-19-2330-000	Late Fees	18,500	10,409	(8,091)	56%
20-19-2335-000	Water Improvement Fee	42,250	47,688	5,438	113%
20-19-2340-000	Water Loan Revenue	190,200	178,182	(12,018)	94%
20-19-2360-000	Water Dept. Misc. Revenue / TANK	-	8,323	8,323	0%
	Total Revenue	\$ 1,801,397	\$ 1,318,351	\$ (483,046)	73%
	EXPENDITURES				
	<u>General Administrative</u>				
	<u>Salaries and Benefits</u>				
20-81-3111-000	Salaries / Wages Regular	\$ 328,500	\$ 201,882	\$ 126,618	61%
20-81-3115-000	Overtime	-	500	(500)	0%
20-81-3119-000	Employer Taxes	25,135	15,498	9,637	62%
20-81-3124-000	Sick Leave	-	430	(430)	0%
20-81-3125-000	Employee Benefits	18,430	3,378	15,052	18%
20-81-3127-000	Insurance Premiums	100	312	(212)	312%
20-81-3131-000	Workers Compensation	15,000	18,683	(3,683)	125%
	Total Salaries and Benefits	\$ 387,165	\$ 240,682	\$ 146,484	62%
	<u>Professional Services</u>				
20-81-3161-000	Professional Services- Legal	\$ 20,000	\$ 18,600	\$ 1,400	93%
20-81-3162-000	Professional Services- Acctg	9,500	9,500	-	100%
20-81-3163-000	Professional Services- Other/ Engineering, etc.	40,000	46,065	(6,065)	115%
20-81-3164-000	Professional Services- IT/ Water Billing	30,000	70,577	(40,577)	235%
	Total Professional Services	\$ 99,500	\$ 144,742	\$ (45,242)	145%
	<u>Administrative</u>				
20-81-3141-000	Employee Clothing	\$ 500	\$ 118	\$ 382	24%
20-81-3145-000	Employee Training	3,000	661	2,339	22%
20-81-3149-000	Employee Travel	200	-	200	0%
20-81-3153-000	Memberships / Registrations	8,300	9,156	(856)	110%
20-81-3167-000	Payment Processing	10,037	370	9,667	4%
20-81-3169-000	Bank Fees and Services	460	18	442	4%
20-81-3211-000	General (Contract) Services	11,000	18,543	(7,543)	169%
20-81-3245-000	Utilities	115,000	111,049	3,951	97%
20-81-3253-000	Postage	7,000	606	6,394	9%
20-81-3281-000	Insurance	10,000	8,738	1,262	87%
20-81-3333-000	Publication / Legal Notices	500	-	500	0%
20-81-3338-000	Communication	5,500	1,472	4,028	27%
20-81-3523-000	Grant Expense- DOUG	-	-	-	0%
20-81-3391-000	Misc. Expenses	800	7,888	(7,088)	986%
	Total Administration	\$ 172,297	\$ 158,619	\$ 13,678	92%
	Total General Administrative	\$ 658,962	\$ 544,043	\$ 114,919	83%
	<u>Operations</u>				
20-81-3276-000	Vehicle Loan- Principal	\$ 7,820	\$ 3,186	\$ 4,634	41%
20-81-3277-000	Vehicle Loan- Interest	1,240	930	310	75%
20-82-3223-000	Operating Supplies- Treatment	25,000	38,069	(13,069)	152%
20-82-3224-000	Operating Supplies- Distribution	15,000	13,980	1,020	93%
20-82-3225-000	Building Maintenance	1,000	2,941	(1,941)	294%
20-82-3226-000	Repairs / Maintenance Supplies- Treatment	40,000	4,033	35,968	10%
20-82-3227-000	Repairs / Maintenance Supplies- Distribution	12,500	2,059	10,441	16%
20-82-3233-000	Water Meters / Replacements	5,000	5,515	(515)	110%
20-82-3234-000	Water Meters / Supplies & Repairs	5,000	2,708	2,292	54%

TOWN OF PALMER LAKE

WATER FUND

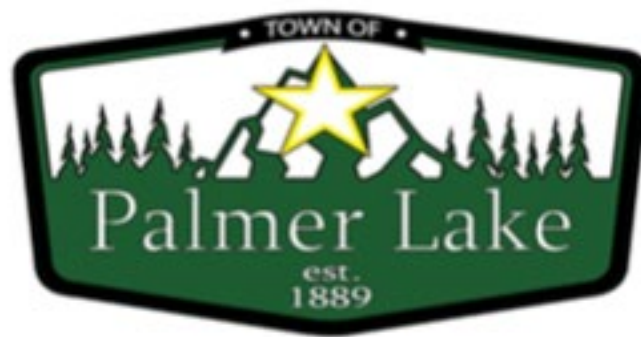
**Budget Status Report - GAAP Basis
For the Eleven Months Ending November 30, 2021**

Unaudited

		2021	YTD	Variance	Percent
		Budget	Actual	Favorable (Unfavorable)	of Budget (YTD 92%)
20-82-3271-000	Vehicle Repair / Maint	6,000	584	5,416	10%
20-82-3275-000	Fuel	6,000	5,129	871	85%
20-82-3292-000	Capital Improvement- Water	700,000	561,658	138,342	80%
20-82-3293-000	Capital Equipment / TANK	-	-	-	0%
20-82-3294-000	Water Line Repair	100,000	13,215	86,786	13%
20-82-3313-000	Equipment Maintenance	23,000	34,612	(11,612)	150%
20-82-3338-000	Communications	1,550	3,587	(2,037)	231%
20-82-3411-000	Reservoirs / Dam Maintenance	10,000	3,037	6,963	30%
20-82-3431-000	Water Quality Tests	26,000	17,245	8,755	66%
	Total Operations	\$ 985,110	\$ 712,487	\$ 272,623	72%
	Total Administrative and Operations	\$ 1,644,072	\$ 1,256,529	\$ 387,543	76%
	Debt Service				
20-81-3400-000	CWRPDA 2009 Principal	\$ 83,916	\$ 87,323	\$ (3,407)	104%
20-81-3401-000	CWRPDA 2009 Interest	20,775	17,648	3,127	85%
20-81-3405-000	CWRPDA 2018 Principal	26,872	47,883	(21,011)	178%
20-81-3406-000	CWRPDA 2018 Interest	15,762	20,286	(4,524)	129%
20-81-3426-000	General Fund Loan- Interest	10,000	5,000	5,000	50%
	Total Debt Service	\$ 157,325	\$ 178,139	\$ (20,814)	113%
	Total Expenditures	\$ 1,801,397	\$ 1,434,669	\$ 366,728	80%
	EXCESS OF REVENUE OVER (UNDER)				
	EXPENSES	\$ -	\$ (116,318)	\$ (116,318)	

CONSERVATION TRUST FUND

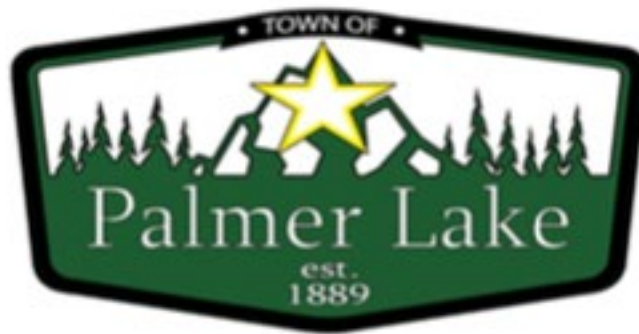
November 2021



TOWN OF PALMER LAKE					
Conservation Trust Fund					
Budget Status Report - GAAP Basis					
For the Eleven Months Ending November 30, 2021					
Unaudited					
		2021	YTD	Variance	Percent
		Budget	Actual	Favorable	of Budget
Account Number	REVENUE			(Unfavorable)	(YTD 92%)
50-10-2160-000	Carry Over	\$ 30,000	\$ -	\$ (30,000)	0%
50-10-2170-000	Miscellaneous Income - CTF	-	13	13	0%
50-10-2210-000	Conservation Trust Interest	-	11	11	0%
50-10-2410-000	State Shared Revenue	19,507	26,279	6,772	135%
	Total Revenue Conservation Trust	\$ 49,507	\$ 26,303	\$ (23,204)	53%
	EXPENDITURES				
	Administrative				
	Salaries and Benefits				
50-30-3112-000	Salaries / Wages Temp/Part-time	\$ 24,000	\$ 17,980	\$ 6,020	75%
50-30-3119-000	Employer Taxes	1,836	1,614	222	88%
	Total Salaries and Benefits	\$ 25,836	\$ 19,594	\$ 6,242	76%
	Administrative				
50-30-3211-000	Contract Services	\$ -	\$ 2,623	\$ (2,623)	0%
50-30-3223-000	Operating Supplies / Materials	4,000	8,241	(4,241)	206%
50-30-3226-000	Repair / Maintenance Supplies	2,500	485	2,015	19%
50-30-3245-000	Utilities	1,000	1,374	(374)	137%
50-30-3275-000	Fuels / Lubricants	234	1,832	(1,598)	783%
50-30-3293-000	Capital Improvements	15,937	7,986	7,952	50%
	Total General Administration	\$ 23,671	\$ 22,540	\$ 1,131	95%
	Total General Administrative	\$ 49,507	\$ 42,134	\$ 7,373	85%
	Total Expenditures	\$ 49,507	\$ 42,134	\$ 7,373	85%
	EXCESS OF REVENUE OVER (UNDER)				
	EXPENDITURES	\$ -	\$ (15,831)	\$ (15,831)	

GRANTS & DONATIONS FUND

November 2021

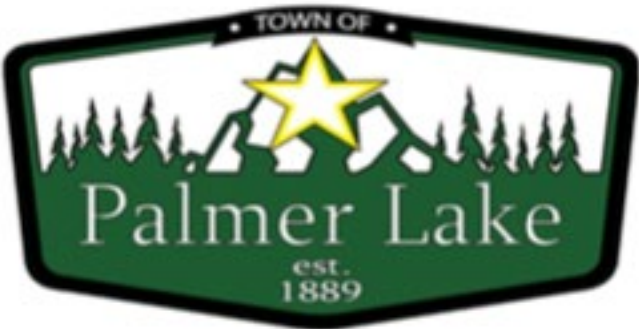


TOWN OF PALMER LAKE
GRANT & DONATION FUND
 Budget Status Report - GAAP Basis
 For the Eleven Months Ending November 30, 2021

Unaudited					
		2021	YTD	Variance	Percent
		Budget	Actual	Favorable	of Budget
				(Unfavorable)	(YTD 92%)
Account Number	REVENUE				
10-10-2186-000	FPPA Matching Funds	\$ 14,000	\$ -	\$ (14,000)	0%
10-10-2191-000	Fire Mitigation Grant	50,000	10,000	(40,000)	20%
10-10-2192-000	DOLA Grant	360,000	-	(360,000)	0%
10-10-2193-000	CESF Grant	-	29,790	29,790	0%
20-19-2350-000	ARP Funds	-	376,145	376,145	0%
10-10-3631-000	Police Donations/ Grants	15,000	3,544	(11,456)	24%
10-10-3680-000	Parks Donations/ Grants	1,000	2,290	1,290	229%
	Total Revenue	\$ 440,000	\$ 421,769	\$ (18,231)	96%
	EXPENDITURES				
	General Administrative				
10-21-3523-000	Grants Expense- DOLA / GOCO	\$ 360,000	\$ -	\$ 360,000	0%
	Total General Administrative Expenditures	\$ 360,000	\$ -	\$ 360,000	0%
	Police Department Expenditures				
10-31-3523-000	Grant Expense	\$ 15,100	\$ 6,501	\$ 8,599	43%
	Total Police Department Expenditures	\$ 15,100	\$ 6,501	\$ 8,599	43%
	Fire Department Expenditures				
10-41-3523-000	Grants Expense	\$ -	\$ -	\$ -	0%
	Total Fire Department Expenditures	\$ -	\$ -	\$ -	0%
	Roads Department Expenditures				
10-51-3519-000	RMB SRTS Grant	\$ -	\$ -	\$ -	0%
10-51-3523-000	Grants Expense- Douglas	13,900	-	13,900	0%
	Total Roads Department Expenditures	\$ 13,900	\$ -	\$ 13,900	0%
	Parks Department Expenditures				
10-80-3215-000	Parks Committee (donations)	\$ 1,000	\$ 2,500	\$ (1,500)	250%
10-80-3314-000	Fire Mitigation CUSP	50,000	-	50,000	0%
10-80-3523-000	Grants Expense	-	2,140	(2,140)	0%
	Total Parks Department Expenditures	\$ 51,000	\$ 4,640	\$ 46,360	9%
	Water Department Expenditures				
20-81-3523-000	Grant Expense- DOUG	\$ -	\$ 168,348	\$ (168,348)	0%
	Total Water Department Expenditures	\$ -	\$ 168,348	\$ (168,348)	0%
	Total Expenditures	\$ 440,000	\$ 179,489	\$ 428,859	
	EXCESS OF REVENUE OVER (UNDER)				
	EXPENDITURES	\$ -	\$ 242,279	\$ 410,627	

Check Register

November 2021



Ranges:	From:	To:	From:	To:
Check Number	First	Last	Check Date	11/1/2021
Vendor ID	First	Last	Checkbook ID	First
Vendor Name	First	Last		Last

Sorted By: Check Number

* Voided Checks

Check Number	Vendor ID	Vendor Check Name	Check Date	Checkbook ID	Audit Trail Code	Amount
47572	5STARLIFEINSURA	5Star Life Insurance Company	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$251.40
47573	AIRGAS	Airgas USA, LLC	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$550.10
47574	AMERICANMEDICAL	American Medical Response	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$226.60
47575	AT&TMOBILITY	AT & T Mobility	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$2,040.57
47576	BLACKHILLSENERG	Black Hills Energy	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$123.67
47577	CENTURYLINK	Century Link	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$297.03
47578	CITYFINANCEACCT	City Finance Accts Rec	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$190.00
47579	COLORADODIVISIO	Colorado Division of Fire Prev	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$240.00
47580	COMPANIONLIFE	Companion Life Insurance	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$44.44
47581	COLLINSDAWN	Dawn Collins	11/12/2021	GENERAL CHECKIN	PMCHK00000259	\$36.54
* 47582	COREANDMAIN	Core & Main	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$162.00
47582	COREELECTRICCOO	CORE Electric Association	11/12/2021	GENERAL CHECKIN	PMCHK00000262	\$6,832.37
* 47583	COREELECTRICCOO	CORE Electric Association	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$6,832.37
47583	COREANDMAIN	Core & Main	11/12/2021	GENERAL CHECKIN	PMCHK00000263	\$162.00
47584	DPCINDUSTRIES,I	DPC Industries, Inc.	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$70.00
47585	EMERGENCYNETWOR	Emergency Network Security Sys	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$61.00
47586	EMERGENCYREPORT	Backdraft OPCO LLC	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$208.53
47587	FOUNTAINCREEKWA	Fountain Creek Watershed, Floo	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$689.98
47588	FRONTRANGEFIRE	Front Range Fire Apparatus	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$5,935.25
47589	GALLS	GALLS, LLC	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$48.95
47590	HIGHPOINTNETWORK	High Point Networks	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$35.00
47591	DEYOEJAMES	James Deyoe	11/12/2021	GENERAL CHECKIN	PMCHK00000260	\$369.11
47592	INTERSTATECHEMI	Interstate Chemical Co, Inc.	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$1,419.60
* 47593	KONICAMINOLTA	Konica Minolta	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$53.06
47594	LNCURTISANDSON	L.N. Curtis and Sons	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$285.75
47595	MEYER&SAMSINC	Meyer & Sams, Inc. dba GMS, In	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$13,047.24
47596	MONUMENTSMALLEN	Monument Small Engine	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$81.49
47597	OREILLY	O'Reilly	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$83.91
47598	OASISLANDSCAPEA	Oasis Landscape & Irrigation I	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$115.00
47599	POWERSERVICEOFC	Power Service of Colorado, Inc	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$724.00
47600	ROIFIRE	ROI Fire & Ballistics Equipmen	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$655.00
47601	SCHMIDTCONSTRUC	Schmidt Construction Company	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$672.08
47602	STERICYCLE	Stericycle, Inc.	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$175.00
47603	TLECC	Timber Line Electric & Control	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$2,289.00
47604	TREEARTISANS	Tree Artisans Inc	11/12/2021	GENERAL CHECKIN	PMCHK00000261	\$2,100.00
47605	AIRGAS	Airgas USA, LLC	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$328.73
47606	AMCOBI	American Conservation & Billin	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$1,619.15
47607	AMCOBIIT	American Conservation & Billin	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$3,843.75
47608	AMERICANPORTABL	American Portable Services, In	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$174.00
47609	AQUARIOUSWORKMA	Aquarius Workman	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$200.00
47610	BBAWATERCONSULT	Bishop-Brogden Associates, Inc	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$4,363.21
47611	BLACKHILLSENERG	Black Hills Energy	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$467.53
47612	CENTURYLINK	Century Link	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$66.61
47613	COLORADODIVISIO	Colorado Division of Fire Prev	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$30.00
47614	CML	Colorado Municipal League	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$1,581.00
47615	CKT	Common Knowledge Technology	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$1,300.00
47616	CENTURYLINKLEVE	Level 3 Communications, LLC	11/18/2021	GENERAL CHECKIN	PMCHK00000266	\$492.96
47617	COMCAST	Comcast	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$193.35
47618	COREANDMAIN	Core & Main	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$802.50
47619	COREELECTRICCOO	CORE Electric Association	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$3,213.53
47620	DANAKEPNERCOMPA	Dana Kepner Company, Inc.	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$553.38
47621	ESO	ESO Solutions Inc.	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$208.53
47622	EVOQUA	Evoqua Water Technologies LLC	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$1,250.00
47623	FORSGRENASSOCIA	Forsgren Associates Inc.	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$407.25
47624	GREEN&ASSOCIATE	Green & Associates LLC	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$14,600.00
47625	DEYOEJAMES	James Deyoe	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$35.00
47626	GAZETTE	The Gazette	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$136.57
47627	HOMEDEPOT	Home Depot Credit Service	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$134.01
47628	KNASTERTECHNOLO	The Knaster Technology Group	11/18/2021	GENERAL CHECKIN	PMCHK00000267	\$945.00
47629	KNOBHILLTOWING	Knob Hill Towing	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$128.75
47630	KONICAMINOLTA	Konica Minolta	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$41.72
47631	LYONSGADDISATTO	Lyons Gaddis Attorneys & Couns	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$88.50
47632	MARIONFORDLINCO	Marion Ford Hyundai	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$29,077.60
47633	MARTINMARIETTA	Martin Marietta Materials	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$52,834.50
47634	MEYER&SAMSINC	Meyer & Sams, Inc. dba GMS, In	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$8,805.47
47635	ONEMANLITTLELAD	One Man & Little Lady Cleaning	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$750.00
47636	ORKIN	Orkin	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$157.00
47637	PALMERLAKEELEM	Palmer Lake Elementary	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$192.00
47638	PALMERLAKESANIT	Palmer Lake Sanitation	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$1,238.40

* Voided Checks

Check Number	Vendor ID	Vendor Check Name	Check Date	Checkbook ID	Audit Trail Code	Amount
47639	ROCKYMOUNTAINOI	Rocky Mountain Oil Change M	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$75.63
47640	SGS	SGS North America, Inc.	11/18/2021	GENERAL CHECKIN	PMCHK00000268	\$460.52
47641	SPRINGSFASTENER	Springs Fastener Co.	11/18/2021	GENERAL CHECKIN	PMCHK00000269	\$32.04
47642	STERICYCLE	Stericycle, Inc.	11/18/2021	GENERAL CHECKIN	PMCHK00000269	\$35.00
47643	TNPARKERCONSTRU	TN Parker Construction	11/18/2021	GENERAL CHECKIN	PMCHK00000269	\$39,121.48
47644	TRILAKESPRINTIN	Tri-Lakes Printing	11/18/2021	GENERAL CHECKIN	PMCHK00000269	\$335.00
47645	UNCC	Utility Notification Center of	11/18/2021	GENERAL CHECKIN	PMCHK00000269	\$43.56
47646	XFINITY	Xfinity	11/18/2021	GENERAL CHECKIN	PMCHK00000269	\$104.85
47653	TNPARKERCONSTRU	TN Parker Construction	11/3/2021	GENERAL CHECKIN	PMCHK00000265	\$45,185.00

Total Checks:	78			Total Amount of Checks:		\$255,714.84
						=====

**TOWN OF PALMER LAKE
EL PASO COUNTY
STATE OF COLORADO**

RESOLUTION NO. 1 - 2022

**A RESOLUTION DESIGNATING POSTING LOCATIONS FOR PUBLIC NOTICE
OF TOWN MEETINGS, PALMER LAKE, COLORADO**

WHEREAS, Palmer Lake is a statutory town organized under Part 3 of Article 4 of Title 31 of the Colorado Revised Statutes; and

WHEREAS, C.R.S. 24-6-402(2)(C) requires all local public bodies, at the first regular meeting of each calendar year, to designate posting places for posting notices of public meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE OF EL PASO COUNTY, COLORADO, AS FOLLOWS:

Section 1. Notices of all meetings of the local public bodies of the Town of Palmer Lake, including the Town Board of Trustees, Planning Commission, Board of Adjustments, and Parks Commission and any committee thereof, shall be posted on the Town’s website calendar. In addition, the historic practice of posting a paper copy of the meeting agenda will continue as a courtesy at the following:

- Town office and/or hall located at 42 Valley Crescent
- Palmer Lake Post Office located at 10 Primrose St / Hwy 105

Section 2. If the Town is unable to post a timely notice for a public meeting online due to exigent or emergency circumstances, such as a power outage or interruption of internet service, a paper copy shall be posted at two locations identified in Section 1.

Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 13th DAY OF JANUARY 2022.

TOWN OF PALMER LAKE, COLORADO

William Bass, Mayor

ATTEST:

By: _____
Dawn A. Collins, Town Clerk

**TOWN OF PALMER LAKE
EL PASO COUNTY
STATE OF COLORADO**

RESOLUTION NO. 2 - 2022

A RESOLUTION APPOINTING THE TOWN OFFICERS FOR PALMER LAKE, COLORADO

WHEREAS, Palmer Lake is a statutory town organized under Part 3 of Article 4 of Title 31 of the Colorado Revised Statutes; and

WHEREAS, pursuant to municipal code section 2.08.010, Officers Appointed, the officers listed below are appointed at the first regular calendar meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE OF EL PASO COUNTY, COLORADO, AS FOLLOWS:

Section 1. Offices of the Town include the following and the individuals appointed to the positions.

- | | |
|--|-----------------|
| • Town Administrator, Clerk, Treasurer | Dawn A. Collins |
| • Town Attorney | Matthew Krob |
| • Municipal Judge | John Ciccolella |

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 13th DAY OF JANUARY 2022.

TOWN OF PALMER LAKE, COLORADO

William Bass, Mayor

ATTEST:

By: _____
Dawn A. Collins, Town Clerk

Town of Palmer Lake Monthly Water Usage

**Month
Year December
2021**

	Gallons	Acre Ft
Surface Water	1,981,000	6.08
Well A2	2,483,000	7.62
Well D2	0	0
Total	4,464,000	13.7
Avg. Gal/Day	144,000	0.44

Release To Lake 0 AF Max Allowed = 8.4 AF / Month
Release Glen Park Evaporation 0 AF

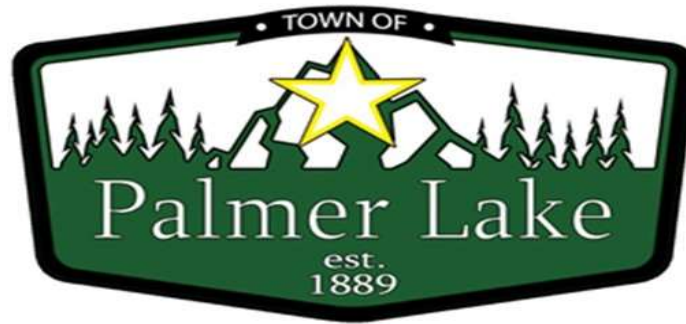
Total 0.00 AF

Dawn Collins

From: Jason D.
Sent: Tuesday, January 04, 2022 11:13 AM
To: Dawn Collins
Subject: Dec Public Works Report

Graded roads
Patched Potholes
Cut tree limbs from ROW
Replaced and repaired street signs
Performed routine maintenance on equipment
Emptied trash cans at Lake Rec. area
Attended Parks Committee meetings
Working with CDOT for \$200,000 in stimulus funds for next year for bridge upkeep
Attended Special events permit meetings
Continued having involvement in the High St Drainage Study
Removed dead deer from ROW
Installed balance beam and spread wood chips at Glen Park with Parks Committee
Removed downed trees after heavy winds
Sanded icy roads
Removed hazardous signal poles from Centennial parking lots
Planning Palmer Lake Elementary School Road Improvement project with Federal Grant funding

Jason Dosch
Public Works Supervisor
Town Of Palmer Lake
719-499-3030



Department Monthly Report - November

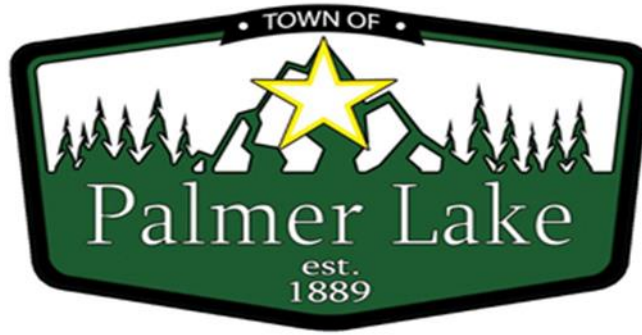
Parks Department

Date	Dec-21
Contact	Ande Furrer
Summary	
1.	Parks Meetings = 4 Hours
2.	Installing balance beam = 5 Hours
3.	Spreading wood chips around balance beam = 2 Hours
4.	Measuring and calculating swing replacement in Glen Park = 2 Hours
5.	Discussing options for Glen Park hill and swing recurbing and cushioning = 2 Hours
6.	Reviewing minutes and agenda = 2 Hours
7.	Inspecting and communicating Centennial Park bulletin board = 1 Hour
8.	Inventory Winterfest Supply Inventory = 1 Hour
9.	Watershed work = 1 Hour
10.	Lights Contest, emails, social media, maps and delivering prizes = 17 Hours
11.	Lighting Contest Judging = 27.5 Hours
12.	Spreadsheets and emails = 4 Hours
13.	Holiday Light Maintenance= 1.5 Hours
14.	Fire works Meeting = 1 Hour
15.	Call and emails for playground material replacement = 1 Hour
	Total Volunteer Hours = 72 Hours

42 Valley Crescent. P. O. Box 208. Palmer Lake, CO 80133

Phone (719) 481-2953 Fax (719) 488-9305

Website: www.townofpalmerlake.com

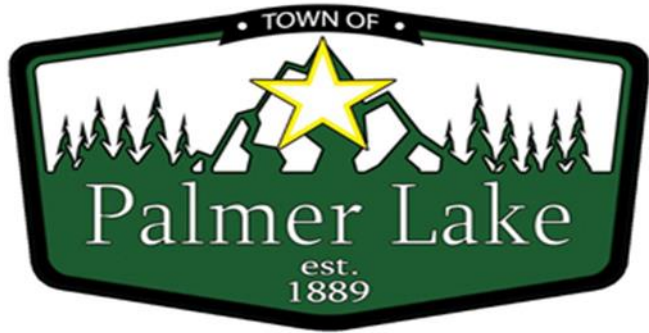


Board of Trustees Summary Sheet

	January 2022
Title	Police Monthly Report - December
Action	N/A
Date	12/1-12/31/2021
Contact	J. Vanderpool
Summary	In the Month of December 2021, the PLPD conducted 74 traffic stops and issued 25 citations. Also, in the month of December, 2 Criminal violations were investigated.
Training	Officers attended different trainings this month to include, Anti-harassment, Violence in the Workplace, Ethics.
Photographs	The attached photographs of the Palmer Lake PD of Santa on Patrol.
Other Actions	The Palmer Lake Police Department joined the PLFD, MPD, TLMFD, and Toys for Tots in the annual Santa on Patrol. This has been an annual event for the past several years where we are able to provide families in need with Toys and meals for the Christmas Holiday.
Active investigations	Palmer Lake PD officers have investigated several Fraud cases this month, in turn they have been educating the victims on how to not fall victim to fraud scams.
Calls for service	Officers responded to 288 calls for service this month. 257 of these calls were in the Town of Palmer Lake, 31 were outside of town.

Code Enforcement	Code enforcement officers have been working with town residents in an effort to correct code violations throughout the town.
S.T.E.P.	S.T.E.P. was instituted in March of this year. The program is making a difference in traffic Safety.





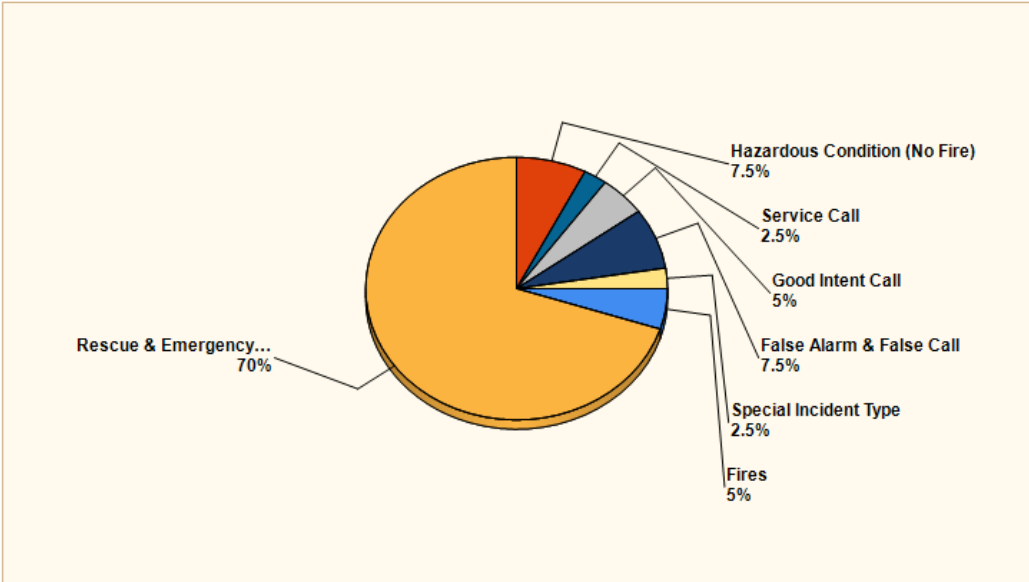
Board of Trustees Summary Sheet

Title	Palmer Lake Fire Department
Action	To provide the most professional and highest level of emergency and prevention services to the citizens and visitors of the Town of Palmer Lake
Date	01/04/2022
Contact	Christopher McCarthy, Fire Chief

Summary	<p><u>2021 Runs</u></p> <table border="1"> <caption>2021 Runs Data</caption> <thead> <tr> <th>Category</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Rescue & Emergency Medical...</td> <td>65.09%</td> </tr> <tr> <td>False Alarm & False Call</td> <td>9.91%</td> </tr> <tr> <td>Service Call</td> <td>7.31%</td> </tr> <tr> <td>Good Intent Call</td> <td>5.42%</td> </tr> <tr> <td>Special Incident Type</td> <td>4.72%</td> </tr> <tr> <td>Hazardous Condition (No Fire)</td> <td>4.01%</td> </tr> <tr> <td>Fires</td> <td>2.83%</td> </tr> <tr> <td>Severe Weather & Natural...</td> <td>0.47%</td> </tr> <tr> <td>Overpressure rupture, explosion,...</td> <td>0.24%</td> </tr> </tbody> </table>	Category	Percentage	Rescue & Emergency Medical...	65.09%	False Alarm & False Call	9.91%	Service Call	7.31%	Good Intent Call	5.42%	Special Incident Type	4.72%	Hazardous Condition (No Fire)	4.01%	Fires	2.83%	Severe Weather & Natural...	0.47%	Overpressure rupture, explosion,...	0.24%
Category	Percentage																				
Rescue & Emergency Medical...	65.09%																				
False Alarm & False Call	9.91%																				
Service Call	7.31%																				
Good Intent Call	5.42%																				
Special Incident Type	4.72%																				
Hazardous Condition (No Fire)	4.01%																				
Fires	2.83%																				
Severe Weather & Natural...	0.47%																				
Overpressure rupture, explosion,...	0.24%																				

MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	12	2.83%
Overpressure rupture, explosion, overheat - no fire	1	0.24%
Rescue & Emergency Medical Service	276	65.09%
Hazardous Condition (No Fire)	17	4.01%
Service Call	31	7.31%
Good Intent Call	23	5.42%
False Alarm & False Call	42	9.91%
Severe Weather & Natural Disaster	2	0.47%
Special Incident Type	20	4.72%
TOTAL	424	100%

December 2021 Runs



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	2	5%
Rescue & Emergency Medical Service	28	70%
Hazardous Condition (No Fire)	3	7.5%
Service Call	1	2.5%
Good Intent Call	2	5%
False Alarm & False Call	3	7.5%
Special Incident Type	1	2.5%
TOTAL	40	100%

Significant Events:

December 15th High Wind Event, PLFD along with other area agencies responded to multiple assignments – including several simultaneous alarms.

Training:

EMS: Case Study and Protocol review, Medical and Trauma scenarios
Fire: Firefighter I Academy, Live Fire Training, Fire Instructor I, II and III, Fire Officer I through IV, Firefighter Skills, MAYDAY, Forcible Entry, Ventilation, and Wildland Training.

Total: 378.25

Total Training hours for 2020: 2275.44

Total Training Hours for 2021: 2989.88, a 31.39% increase





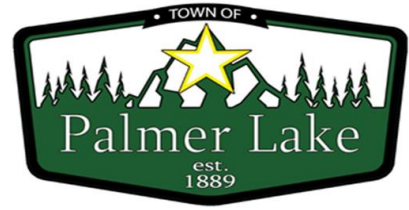




CONTACT US REPORT - DEC - 2021

	Submitted Time	First Name	Subject
1	12/07/2021 - 1:55 PM	Kane	De-Annexation proposal for property on Conty Line Rd
2	12/10/2021 - 11:03 AM	Philip	Residential build planning assistance
3	12/11/2021 - 7:06 PM	Vaughn	Shed
4	12/22/21 - 12:33 AM	Lauren	Can I write a guest article for you website?
5			
6			
7			
8			
9			
10			
11			
12			
13			

Has been determined to most likely be Phish Alert



Item 13.

**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Ordinance 15-2021 to Grant Franchise with Black Hills – Final Reading

Background

The franchise agreement with Black Hills Energy is up for renewal in March 2022. The first reading was passed at the December meeting with respective publications for the final step of adoption of the ordinance to grant the franchise agreement at 4% with Black Hills Energy.

TOWN OF PALMER LAKE, COLORADO

Ordinance No. 15-2021

**AN ORDINANCE GRANTING BLACK HILLS COLORADO GAS, INC.
D/B/A BLACK HILLS ENERGY, ITS LESSEES, SUCCESSORS, AND ASSIGNS,
A NATURAL GAS FRANCHISE AND THE AUTHORITY TO CONSTRUCT, OPERATE,
MAINTAIN, AND EXTEND
A NATURAL GAS DISTRIBUTION PLANT AND SYSTEM, AND GRANTING THE
RIGHT TO USE THE STREETS, ALLEYS, AND OTHER PUBLIC PLACES WITHIN
THE PRESENT OR FUTURE CORPORATE LIMITS OF THE
TOWN OF PALMER LAKE, COLORADO**

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Board of Trustees is authorized by state statute to enter into franchise agreements; and

WHEREAS, notice of the first reading to take place on December 9, 2021 was published in the Tri Lakes Tribune on November 24, 2021 and December 1, 2021 and in the Gazette on November 17, 2021, November 24, 2021 and December 1, 2021.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE AS FOLLOWS:

FRANCHISE GRANTED

The Board of Trustees of Town of Palmer Lake, Colorado (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Black Hills Colorado Gas, Inc. d/b/a Black Hills Energy, (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

TERM

This franchise shall take effect on the first day of the month following the date this Ordinance is finally approved by the Colorado Public Utilities Commission (the “Effective Date”), at which time Grantee will begin to collect the franchise fee set forth herein, and this franchise shall remain in effect for a period of twenty (20) years from the Effective Date of this Ordinance.

FRANCHISE FEES OR TAXES

In exchange for the franchise granted herein, Grantee shall collect from all customers located within the corporate limits of Grantor as depicted on the Map (as defined below) but not the Town of Palmer Lake and pay to Grantor an amount equal four percent (4%) of gross receipts Grantee derives from the sale, distribution or transportation of gas within the present of Grantor. Gross receipts as used herein are revenues received from the sale, distribution or transportation of gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

The amount paid by Grantee shall be in lieu of, and Grantee shall be exempt from, all other fees, charges, taxes or assessments which the Grantor may impose for the privilege of doing business within the limits of Grantor, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the Grantor imposes any such fee, charge, tax or assessment, the payment to be made by Grantee in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Grantee. Ad valorem property taxes imposed generally upon all real and personal property within the present or future corporate limits of Grantor shall not be deemed to affect Grantee’s obligations under this Ordinance.

Grantee shall report and pay any amount payable under this Ordinance on a quarterly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the Grantor to Grantee.

Grantee shall list the franchise fee collected from customers as a separate item on bills for utility service issued to its customers. If at any time the Colorado Public Utilities Commission or other authority having proper jurisdiction prohibits such recovery, then Grantee will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. Any customer refunds ordered by the Commission or other authority due to an unlawful or prohibited collection of the franchise fee collected by Grantee and remitted to Grantor shall be refunded by Grantor. In addition, Grantee may reduce the franchise fee payable for gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

Within ten (10) days of the date of this ordinance, Grantor shall provide Grantee with a map of its corporate limits (the “Map”). The Map shall be of sufficient detail to assist Grantee in determining whether their customers reside within Grantor’s corporate limits. The Map along with Grantee’s Geographic Information System (“GIS”) mapping information shall serve as the basis for determining Grantee’s obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Grantor’s corporate limits are changed by annexation

or otherwise, it shall be the Grantor's sole responsibility to (a) update the Map so that the changes are included therein, and (b) provide the updated Map to the Grantee. Grantee's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after Grantee's receipt from Grantor of an updated Map including such annexed area, or (b) such time after Grantee's receipt from the Grantor of an updated Map including such annexed area as is reasonably necessary for Grantee to identify the customers in the annexed area obligated to pay the franchise fee.

Grantor shall provide copies of annexation ordinances to Grantee on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the city as set forth above.

Grantor shall indemnify Grantee from claims of any nature, including attorney fees, arising out of or related to the imposition and collection of the franchise fee. In addition, Grantee shall not be liable for paying franchise fees from or to any customer originally or subsequently identified, or incorrectly identified, by Grantor or by Grantee, as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

Grantor shall have access to and the right to examine, during normal business hours, Grantee's books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by Grantee shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by Grantee shall be deducted from the next payment of such franchise fee due by Grantee to Grantor; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

GOVERNING RULES AND REGULATIONS

The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by state or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

PROVISION FOR INADEQUATE ENERGY SUPPLIES

If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES

Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable time thereafter, Grantee shall request, and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practical in advance of the actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

EXTENSION OF GRANTEE'S FACILITIES

Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Colorado Public Utilities Commission make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

RELOCATION OF GRANTEE'S FACILITIES

If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, unless otherwise reimbursed by federal, state

or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference.

If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment.

Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of-way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

CONFIDENTIAL INFORMATION

Grantor acknowledges that certain information it might request from Grantee pursuant to this Ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

FORCE MAJEURE

It shall not be a breach or default under this Ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and 4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

HOLD HARMLESS

Grantee, during the term of this Ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

SUCCESSORS AND ASSIGNS

All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors, and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors, and assigns.

NO THIRD-PARTY BENEFICIARIES

This Ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this Ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third-party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

SEVERABILITY

If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

NON-WAIVER

Any waiver of any obligation or default under this Ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

NON-WAIVER OF GOVERNMENTAL IMMUNITY BY TOWN

Nothing herein shall be construed as a waiver by the Town of any of the immunities, privileges and defenses available to it under the Colorado Governmental Immunity Act, as may be amended from time to time, or arising under common law.

REPEAL CONFLICTING ORDINANCES

This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 2 of 20 of the Town of Palmer Lake, Colorado, is hereby repealed as of the Effective Date hereof.

EFFECT AND INTERPRETATION OF ORDINANCE

The captions that precede each section of this Ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

ACCEPTANCE

Upon final passage and approval of this Ordinance by Grantor, in accordance with applicable laws and regulations, Grantee shall file its acceptance by written instrument, within sixty (60) days of passage by the Board of Trustees, with the Clerk of the Town of Palmer Lake, Colorado. The Clerk of the Town of Palmer Lake, Colorado shall sign and affix the community seal to acknowledge receipt of such acceptance and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

INTRODUCED AND PASSED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO, THIS 9th DAY OF DECEMBER 2021.

William Bass, Mayor

Attest:

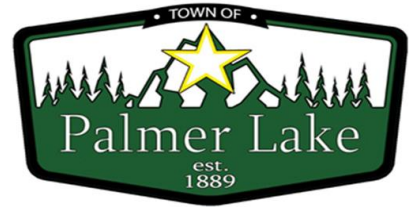
Dawn A. Collins, Town Administrator / Clerk

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO, THIS 13TH DAY OF JANUARY 2022.

William Bass, Mayor

Attest:

Dawn A. Collins, Town Administrator / Clerk



Item 14.

**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Resolution to Authorize IGA for Palmer Lake Elementary Improvement Project

Background

With Board approval, authorizing signature to this IGA will begin the contracting phase with CDOT for the improvement project to begin design for construction. Supervisor Dosch will be present for any questions.

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 3-2022

A RESOLUTION TO AUTHORIZE SIGNING AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH CDOT FOR THE PALMER LAKE ELEMENTARY IMPROVEMENT PROJECT, PALMER LAKE, COLORADO

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Town Board of Trustees has authority over agreements for the Town; and

WHEREAS, the Town intends to begin the design work for Palmer Lake Elementary Improvement project in 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Town Board of Trustees hereby authorizes signature to the IGA with CDOT as described in the attached exhibit.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 13th DAY OF JANUARY 2022.

ATTEST:

TOWN OF PALMER LAKE, COLORADO

Dawn A. Collins
Town Administrator/Clerk

BY: _____
William Bass
Mayor

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 22-HA2-XC-00256
Local Agency TOWN OF PALMER LAKE			Agreement Effective Date The later of the effective date or December 14, 2021
Agreement Description PALMER LAKE ELEMENTARY IMPROVEMENTS			Agreement Expiration Date December 13, 2031
Project # STM M026- 005 (24736)	Region # 2	Contract Writer VJM	Agreement Maximum Amount \$1,198,032.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

<p style="text-align: center;">LOCAL AGENCY TOWN OF PALMER LAKE</p> <hr/> <p style="text-align: center;">Signature</p> <p style="text-align: center;">By: Bill Bass, Mayor</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <hr/> <p style="text-align: center;">Stephen Harelson, P.E., Chief Engineer</p> <p>Date: _____</p>
<p>2nd State or Local Agency Signature if Needed</p> <hr/> <p style="text-align: center;">Signature</p> <p>By: Dawn A. Collins, Town Administrative Clerk</p> <p>Date: _____</p>	<p style="text-align: center;">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <hr/> <p style="text-align: center;">Assistant Attorney General</p> <hr/> <p style="text-align: center;">By: (Print Name and Title)</p> <p>Date: _____</p>
<p>In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Department of Transportation</p> <p>Effective Date: _____</p>	

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- EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; 2) before the encumbering document for the respective phase *and* the official

Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, the expiration of Multimodal Transportation Options Funding (“MMOF”) if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of MMOF will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on December 13, 2031 as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Early Termination in the Public Interest

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

i. Method and Content

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

ii. Obligations and Rights

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

iii. Payments

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

3. AUTHORITY

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

A. Federal Authority

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

B. State Authority

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

101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT's Stewardship Agreement with the FHWA.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Agreement Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- D. **"Budget"** means the budget for the Work described in **Exhibit C**.
- E. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- F. **"Consultant"** means a professional engineer or designer hired by Local Agency to design the Work Product.
- G. **"Contractor"** means the general construction contractor hired by Local Agency to construct the Work.
- H. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- I. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- J. **"Evaluation"** means the process of examining Local Agency's Work and rating it based on criteria established in §6, **Exhibit A** and **Exhibit E**.
- K. **"Exhibits"** means the following exhibits attached to this Agreement:
 - i. **Exhibit A**, Statement of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance")
- L. **"Federal Award"** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- M. **"Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient.

- N. “**FHWA**” means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- O. “**Goods**” means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.
- P. “**Incident**” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- Q. “**Initial Term**” means the time period defined in **§2.B**
- R. “**Multimodal Transportation Options Funding**” or “**MMOF**” means money transferred from the general fund to the fund pursuant to C.R.S. §§24-75-219 (5)(a)(III) and (5)(b)(III) and any other money that the general assembly may appropriate or transfer to the fund.
- S. “**Notice to Proceed**” means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- T. “**OMB**” means the Executive Office of the President, Office of Management and Budget.
- U. “**Oversight**” means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- V. “**Party**” means the State or Local Agency, and “**Parties**” means both the State and Local Agency.
- W. “**PII**” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S.
- X. “**Recipient**” means the Colorado Department of Transportation (CDOT) for this Federal Award.
- Y. “**Services**” means the services to be performed by Local Agency as set forth in this Agreement, and shall include any services to be rendered by Local Agency in connection with the Goods.
- Z. “**State Confidential Information**” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- AA. “**State Fiscal Rules**” means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- BB. “**State Fiscal Year**” means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- CC. “**State Purchasing Director**” means the position described in the Colorado Procurement Code and its implementing regulations.
- DD. “**State Records**” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- EE. “**Subcontractor**” means third-parties, if any, engaged by Local Agency to aid in performance of the Work.
- FF. “**Subrecipient**” means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- GG. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB

Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.

HH. **“Work”** means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.

II. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

6. STATEMENT OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement.

Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the period of performance for a phase of Work authorized under this Agreement. To exercise this phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **§7.E**

A. Local Agency Commitments

i. Design

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

- a. Perform or provide the Plans to the extent required by the nature of the Work.
- b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
- c. Prepare provisions and estimates in accordance with the most current version of the State’s Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
- d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
- e. Stamp the Plans as produced by a Colorado registered professional engineer.
- f. Provide final assembly of Plans and all other necessary documents.
- g. Ensure the Plans are accurate and complete.
- h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.

ii. Local Agency Work

- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects”.
- b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
- c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State’s approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State’s standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency’s attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.
 - (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
 - (c) The consultant shall review the construction Contractor’s shop drawings for conformance with the contract documents and compliance with the provisions of the State’s publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
 - (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for

contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within 3 working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of §6.A.iii.b.2 also apply to any advertising and bid awards made by the State.
 - (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.
- iv. Right of Way (ROW) and Acquisition/Relocation
 - a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
 - b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
 - c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
 - d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant to the following categories:

- 1) Right of way acquisition (3111) for federal participation and non-participation;
- 2) Relocation activities, if applicable (3109);
- 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

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

vi. Railroads

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

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

vii. Environmental Obligations

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

viii. Maintenance Obligations

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

ix. Monitoring Obligations

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

B. State's Commitments

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

7. PAYMENTS

A. Maximum Amount

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

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part by the State with MMOF there is an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. In order to receive payment from the State or credit for the match, Work must be completed prior to the expiration date of funding and invoiced in compliance with C.R.S. §§24-75-102(a) and 24-30-202(11). Billing for this work must be submitted 30 days prior to the end of the State Fiscal Year which is June 30th.

ii. Interest

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

iii. Payment Disputes

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

iv. Available Funds-Contingency-Termination

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

this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.

- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

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

C. Matching Funds

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

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency’s allowable costs, not exceeding the maximum total amount described in **Exhibit C** and **§7**. The applicable principles described in 2 C.F.R. Part 200 shall govern the State’s obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

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

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

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

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

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

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

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3, etc.**) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

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

iv. Option to Update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. The State may update any information contained in **Exhibit C**, Sections 2 and 4 of the Table, and sub-sections B and C of the **Exhibit C**.

F. Accounting

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

i. Local Agency Performing the Work

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

ii. Local Agency-Checks or Draws

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

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as

provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

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

v. Invoicing Within 60 Days

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

vi. Risk Assessment & Monitoring

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

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

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

G. Close Out

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

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five (5) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

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

C. Performance and Final Status

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

D. Violations Reporting

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

9. LOCAL AGENCY RECORDS

A. Maintenance

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

B. Inspection

Local Agency shall permit the State to audit, inspect, examine, excerpt, copy, and transcribe Local Agency Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon

times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work.

D. Final Audit Report

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

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

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

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

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

12. INSURANCE

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

A. Local Agency Insurance

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

B. Subcontractor Requirements

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

i. Workers' Compensation

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

ii. General Liability

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

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

- c. \$1,000,000 products and completed operations aggregate; and
 - d. \$50,000 any 1 fire.
 - iii. Automobile Liability
Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.
 - iv. Protected Information
Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJL, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:
 - a. \$1,000,000 each occurrence; and
 - b. \$2,000,000 general aggregate.
 - v. Professional Liability Insurance
Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:
 - a. \$1,000,000 each occurrence; and
 - b. \$1,000,000 general aggregate.
 - vi. Crime Insurance
Crime insurance including employee dishonesty coverage with minimum limits as follows:
 - a. \$1,000,000 each occurrence; and
 - b. \$1,000,000 general aggregate.
- C. Additional Insured
The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.
- D. Primacy of Coverage
Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.
- E. Cancellation
All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.
- F. Subrogation Waiver
All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- G. Certificates
For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective

Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

A. Defined

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

B. Notice and Cure Period

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

14. REMEDIES

A. State's Remedies

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

i. Termination for Breach

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

a. Obligations and Rights

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

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

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

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

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

B. Local Agency's Remedies

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

15. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as

described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

16. NOTICES AND REPRESENTATIVES

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

For the State

Colorado Department of Transportation (CDOT)
Matt Pettit, Local Agency Coordinator
CDOT Region 2
5615 Wills Boulevard
Pueblo, CO 81008
719-248-0378
matthew.pettit@state.co.us

For the Local Agency

Town of Palmer Lake
Jason Dosch, Public Works Supervisor
PO BOX 208
Palmer Lake, CO 80133
719-481-2953
bbass@palmer-lake.org

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

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

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights

or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

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

B. Exclusive Property of the State

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

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

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

C. Binding Effect

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

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. 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.

I. Modification

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

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

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

K. Order of Precedence

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

- i. Colorado Special Provisions in the main body of this Agreement.
- ii. The provisions of the other sections of the main body of this Agreement.
- iii. **Exhibit A**, Statement of Work.
- iv. **Exhibit D**, Local Agency Resolution.
- v. **Exhibit C**, Funding Provisions.
- vi. **Exhibit B**, Sample Option Letter.
- vii. **Exhibit E**, Local Agency Contract Administration Checklist.
- viii. Other exhibits in descending order of their attachment.

L. Severability

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

M. Survival of Certain Agreement Terms

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

N. Third Party Beneficiaries

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

O. Waiver

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

P. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-103.5-101 C.R.S., if any, are subject to public release through the CORA.

Q. Standard and Manner of Performance

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

R. Licenses, Permits, and Other Authorizations.

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

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

These Special Provisions apply to all contracts except where noted in italics.

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

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

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

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

C. GOVERNMENTAL IMMUNITY.

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

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State.

Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due

under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq., C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] 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 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 the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education 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 Department 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 Department 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.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(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.

Revised 11-1-18

22. FEDERAL REQUIREMENTS

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

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

24. DISPUTES

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

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EXHIBIT A
STATEMENT OF WORK

PALMER LAKE ELEMENTARY IMPROVEMENTS
STM M026-005 (24736)

1. General Description

The Palmer Lake Elementary Improvement project involves repaving two roads, Upper Glenway and Pie Corner, which connect to Hwy 105, and act as the main route to Palmer Lake Elementary school. In conjunction with the paving of these roads, the water main will be upgraded, and the storm water runoff will be addressed. Solar-powered flashing lights for the school zone speed and crosswalk will be installed, and the current sidewalks will be replaced with ADA compliant sidewalks including a ramp at the entrance to the school for drop off and pickup.

2. Definitions N/A

3. Personnel

3.1. Responsible Administrator.

The Local Agency's performance hereunder shall be under the direct supervision of the project manager identified in §16 of the Agreement.

Project Manager: Jason Dosch, Public Works Supervisor

jasond@palmer-lake.org

719-499-3030

3.2. Replacement

The Local Agency shall immediately notify the State if any key personnel cease to serve and seek its approval. Such notice shall specify why the change is necessary, who the proposed replacement is, what their qualifications are, and when the change would take effect. Anytime key personnel cease to serve, the State, in its sole discretion, may direct the Local Agency to suspend performance on the Work until such time as their replacements are approved. All notices sent under this subsection shall be sent in accordance with §16 of the Agreement.

4. Administrative Requirements

At all times from the effective date of this Agreement until completion of the Work, the Local Agency shall maintain properly segregated books of State Agreement funds, matching funds, and other funds associated with the Work. All receipts and

expenditures associated with said Work shall be documented in a detailed and specific manner, and shall accord with the Work Budget set forth herein.

5. Monitoring

The State shall monitor this Work on an as-needed basis. The State may choose to audit the business activities performed under this Agreement. The Local Agency shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Agreement. Such books and records shall contain documentation of the participant's pertinent activity under this Agreement in a form consistent with good accounting practice.

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EXHIBIT B
SAMPLE IGA OPTION LETTER

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

Vendor Name: _____

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

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

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

Option to unilaterally extend the performance of this Agreement and/or update a Work Phase Performance Period.

Option A

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

Option B

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

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the performance of this Agreement and/or update a Work Phase Performance Period.

The total encumbrance as a result of this option and all previous options and/or amendments is now \$0.00, as referenced in **Exhibit C-1**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: as referenced in **Exhibit C-1**.

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

STATE OF COLORADO
Jared S. Polis
Department of Transportation

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

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

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

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

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C FUNDING PROVISIONS

EXHIBIT C – FUNDING PROVISIONS

STM M026-005 (24736)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be \$1,198,032.00, which is to be funded as follows:

1. BUDGETED FUNDS				
a. Federal Funds (82.79% of Award Costs)				\$991,850.00
b. Local Agency Matching Funds (17.21% of Award Costs)				\$206,182.00
TOTAL BUDGETED FUNDS				\$1,198,032.00
2. OMB UNIFORM GUIDANCE				
a. Federal Award Identification Number (FAIN):				TBD
b. Federal Award Date (also Phase Performance Start Date):				See Below
c. Amount of Federal Funds Obligated:				\$0.00
d. Total Amount of Federal Award:				\$991,850.00
e. Name of Federal Awarding Agency:				FHWA
f. CFDA # Highway Planning and Construction				CFDA 20.205
g. Is the Award for R&D?				No
h. Indirect Cost Rate (if applicable)				N/A
3. ESTIMATED PAYMENT TO LOCAL AGENCY				
a. Federal Funds Budgeted				\$991,850.00
b. Less Estimated Federal Share of CDOT-Incurred Costs				\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY				\$991,850.00
4. FOR CDOT ENCUMBRANCE PURPOSES				
a. Total Encumbrance Amount				\$1,198,032.00
b. Less ROW Acquisition 3111 and/or ROW Relocation 3109				\$0.00
Net to be encumbered as follows:				\$1,198,032.00
<i>Note: No funds are currently available. Funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.</i>				
WBS Element 24736.10.30	Performance Period Start*/End Date TBD / TBD	Design	3020	\$0.00
WBS Element 24736.20.10	Performance Period Start*/End Date TBD / TBD	Const.	3301	\$0.00

***The Local Agency should not begin work until all three of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three milestones are achieved will not be reimbursable.**

B. Matching Funds

The matching ratio for the federal funds for this Work is 82.79% federal-aid funds to 17.21% Local Agency funds, it being understood that such ratio applies only to the \$1,198,032.00 that is eligible for federal funds, it being further understood that all additional costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$1,198,032.00, and additional federal funds are made available for the Work, the Local Agency shall pay 17.21% of all such costs eligible for federal funds and 100% of all additional costs; if additional federal funds are not made available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$1,198,032.00, then the amounts of Local Agency and federal-aid funds will be decreased in accordance with the funding ratio described herein. The performance of the Work shall be at no cost to the State. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$991,850.00 (for CDOT accounting purposes, the federal funds of \$991,850.00 and the Local Agency matching funds of \$206,182.00 will be encumbered for a total encumbrance of \$1,198,032.00), unless such amount is increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award. The maximum amount payable shall be reduced without amendment when the actual amount of the Local Agency's awarded contract is less than the budgeted total of the federal Award funds and the Local Agency matching funds. The maximum amount payable shall be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

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

- i. Expenditure less than \$750,000**
If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.
- ii. Expenditure of \$750,000 or more-Highway Funds Only**
If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.
- iii. Expenditure of \$750,000 or more-Multiple Funding Sources**
If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.
- iv. Independent CPA**
Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

COLORADO DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

Project No. STM M026-005	STIP No.	Project Code 24736	Region 2
Project Location Town of Palmer Lake			Date 09/15/2021
Project Description Palmer Lake Elementary Improvements			
Local Agency Town of Palmer Lake		Local Agency Project Manager Jason Dosch	
CDOT Resident Engineer Lachelle Davis		CDOT Project Manager Matt Pettit	
INSTRUCTIONS:			
This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i> .			
The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve.			
Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT.			
The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist.			
Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consistent with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463		X
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement <ul style="list-style-type: none"> • Project Development • Construction Contract Administration (including Fabrication Inspection Services) 	X X	# #
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
5.9	Obtain Utility and Railroad Agreements	X	#
5.10	Conduct Final Office Review (FOR)	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.11	Justify Force Account Work by the Local Agency	X	#
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	#
5.13	Document Design Exceptions - CDOT Form 464	X	#
5.14	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist).		X
6.2	Determine Applicability of Davis-Bacon Act This project <input type="checkbox"/> is <input checked="" type="checkbox"/> is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Lachelle Davis _____ 719-562-5516 CDOT Resident Engineer (Signature on File) Date		X
6.3	Set On-the-Job Training Goals (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	#
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD of CONSTRUCTION PROJECTS			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		X
	Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals		X
	Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	#
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	#
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B) • Fabrication Inspection Notifications	X	
	Pre-survey • Construction staking • Monumentation	X X	
	Partnering (Optional)	X	#
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	X	
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	X	
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Jason Dosch _____ 719/499-3030 Local Agency Professional Engineer Phone number	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	#
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. <ul style="list-style-type: none"> • Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements. • Complete CDOT Form 838 – OJT Trainee / Apprentice Record. • Complete CDOT Form 200 - OJT Training Questionnaire 	X X X X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	#
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)	X	#
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification and Collect EEO Forms	X	#
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	#
11.8	Obtain CDOT Form 1419 from the Contractor and Submit to the CDOT Project Manager	X	
11.9	(FHWA Form 47 discontinued)	NA	
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment		X
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure	X	
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	X

cc: CDOT Resident Engineer/Project Manager
 CDOT Region Program Engineer
 CDOT Region EEO/Civil Rights Specialist
 CDOT Region Materials Engineer
 CDOT Contracts and Market Analysis Branch
 Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

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

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

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

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

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

EXHIBIT G
DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

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

SECTION 2. DBE Obligation.

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

SECTION 3 DBE Program.

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

A copy of the DBE Program is available from and will be mailed to the Local Agency upon request: Business Programs Office

Colorado Department of Transportation 2829 West Howard Place

Denver, Colorado 80204

Phone: (303) 757-9007

REVISED 1/22/98

REQUIRED BY 49 CFR PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

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

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

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

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

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

- a. Qualifications,

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

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

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

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

b. The contractor will accept as its operating policy the following statement:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. **Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

Contracting agencies may elect to apply these requirements to other projects.

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

1. Minimum wages

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

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

c. Equal employment opportunity.

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

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

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

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

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

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

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

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

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

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

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

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

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

Executive Order 11246

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

Copeland "Anti-Kickback" Act

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

Davis-Bacon Act

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

Contract Work Hours and Safety Standards Act

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

Clear Air Act

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

Energy Policy and Conservation Act

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

OMB Circulars

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

Hatch Act

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

Nondiscrimination

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

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

ADA

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

Uniform Relocation Assistance and Real Property Acquisition Policies Act

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

Drug-Free Workplace Act

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

Age Discrimination Act of 1975

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

23 C.F.R. Part 172

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

23 C.F.R Part 633

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

23 C.F.R. Part 635

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

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

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

Nondiscrimination Provisions:

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

i. Compliance with Regulations

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

ii. Nondiscrimination

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

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

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

iv. Information and Reports

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

v. Sanctions for Noncompliance

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

Incorporation of Provisions §22

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

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

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

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

General Assurances

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

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

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

Specific Assurances

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

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

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

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

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

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

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

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

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

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

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

(HABENDUM CLAUSE)

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

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

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

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

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

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

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

APPENDIX D

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

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

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

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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

EXHIBIT K
FFATA SUPPLEMENTAL FEDERAL PROVISIONS

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

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

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

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

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

Award *does not* include:

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

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

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

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

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

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

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

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

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

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

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

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

8. Exemptions.

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


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

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

CDOT SUBRECIPIENT RISK ASSESSMENT		Date: 		
Name of Entity (Subrecipient):				
Name of Project / Program:				
Estimated Award Period:				
Entity Executive Director or VP:				
Entity Chief Financial Officer:				
Entity Representative for this Self Assessment:				
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.		Yes	No	N/A
EXPERIENCE ASSESSMENT		Yes	No	N/A
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MONITORING/AUDIT ASSESSMENT		Yes	No	N/A
4	Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	a) Were there non-compliance issues in this prior review?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b) What were the number and extent of issues in prior review?	<input type="checkbox"/> <small>1 to 2</small>	<input type="checkbox"/> <small>>3</small>	<input type="checkbox"/>
OPERATION ASSESSMENT		Yes	No	N/A
6	Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FINANCIAL ASSESSMENT		Yes	No	N/A
7	a) Does your entity have an indirect cost rate that is approved and current?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b) If Yes, who approved the rate, and what date was it approved?			
8	Is this grant/award 10% or more of your entity's overall funding?	<input type="checkbox"/> <small>>10%</small>	<input type="checkbox"/> <small><10%</small>	<input type="checkbox"/>
9	Has your entity returned lapsed* funds? <i>*Funds "lapse" when they are no longer available for obligation.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Has your entity had difficulty meeting local match requirements in the last three years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?			

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	<input type="checkbox"/>	<input type="checkbox"/>	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	<input type="checkbox"/>	<input type="checkbox"/>	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	<input type="checkbox"/>	<input type="checkbox"/>	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	How many total FTE perform accounting functions within your organization?	<input type="checkbox"/> ≥ 6	<input type="checkbox"/> 2 to 5	<input type="checkbox"/> < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	<input type="checkbox"/>	<input type="checkbox"/>	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.</p>			
<p><input type="checkbox"/> By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.</p>  <p>Tool Version: v2.0 (081816)</p>			

**EXHIBIT M - OMB Uniform Guidance for Federal
Awards Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit
Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

- 9. Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
- 9.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
 - 9.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
 - 9.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2CFR §200.37
 - 9.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
 - 9.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
 - 9.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
 - 9.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
 - 9.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
 - 9.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
 - 9.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A- 133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
 - 9.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 10. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions

automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

11. Procurement Standards.

- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient's fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.
- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

6.1 Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants foremployment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided bylaw.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

4.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-

3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 4.3 Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 4.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 4.5 Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 4.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 7. Certifications.** Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.
- 1.8.Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30

days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

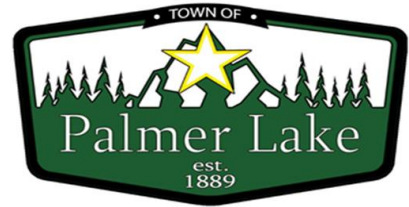
- 9. Effective Date.** The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

10. Performance Measurement

The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.



Item 15.

**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Resolution to Authorize Signature to the MS4 Annual Report for Palmer Lake

Background

As noted in Mr. John Chavez memo enclosed, 2021 is the first year the Town meets compliance for the MS4 permit. Enclosed is the annual report to be filed, requiring Board approval to authorize signature for submittal.



DATE: January 6, 2022
TO: Dawn Collins
FROM: John B. Chavez
CC: Jason Dosch
RE: Town of Palmer Lake 2021 MS4 Annual Report

Please find attached the completed 2021 MS4 Annual Report for the Town of Palmer Lake. The report is ready for your review, signature approval by the Mayor and submission to the Water Quality Control Division.

The Town achieved full implementation of the MS4 program on February 11, 2021, when it formally approved the Town's MS4 Program Description Document. The 2021 report reflects the progress the Town made in implementing its new MS4 program. Examples of progress made in 2021 include:

- Creation of a stormwater website;
- Participation in a Regional Stormwater Education and Outreach Campaign that reached over 9 million impressions;
- Participating in, or sponsoring multiple creek clean up events;
- Responded to and resolved one illicit discharge;
- Provided plan reviews for two new applicable construction activities;
- Performed seven inspections of an active project.

Once approved, the signed report form must be submitted to the Colorado Department of Public Health and Environment, Water Quality Control Division by March 31, 2022. The signed document may be submitted to: cdphe.wqrecordscenter@state.co.us. A hardcopy with original signature should be also sent to the address listed on the bottom of the report form. Please let me know if you need any assistance with the submittal.

Thank you.

Attached: 2021 MS4 Annual Report

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 4-2022

A RESOLUTION TO AUTHORIZE SIGNATURE TO THE MS4 ANNUAL REPORT FOR THE TOWN OF PALMER LAKE, COLORADO

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Town achieved full implementation of the MS4 program in 2021; and

WHEREAS, the 2021 report reflects the progress made implementing the new MS4 program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Town Board of Trustees hereby authorizes signature to the enclosed Annual Report and subsequent submission to the Water Quality Control Division.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 13th DAY OF JANUARY 2022.

ATTEST:

TOWN OF PALMER LAKE, COLORADO

Dawn A. Collins
Town Administrator/Clerk

BY: _____
William Bass
Mayor



Dedicated to protecting and improving the health and environment of the people of Colorado

COR090000 NEW Permittees Annual Report Form

Municipal Separate Storm Sewer Systems (MS4s) General Permits

One original copy (no faxes or e-mails) of the completed annual report form and any required attachments, must be submitted to the address in the footer, below

Part 1: Permit Identification General Permit Number: COR090000 Certification Number: COR09 <u>0114</u>	Part B: Reporting Period Jan 1 through Dec 31 Check one. Report is due by March 31 of the following year. *2016 report is from the effective date of certification through Dec 31, 2016 <input type="checkbox"/> 2016* <input type="checkbox"/> 2017 <input type="checkbox"/> 2018 <input type="checkbox"/> 2019 <input type="checkbox"/> 2020 <input checked="" type="checkbox"/> 2021
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Part 2: Permittee Information (If there are any changes, please submit a [Change of Contacts form](#))

Organization: Town of Palmer Lake

Mailing Address: P.O. Box 208

City: Palmer Lake State: CO Zip: 80133

Part 3: Site Contact Information (If there are any changes, please submit a [Change of Contacts form](#))

Facility Contact Name: Jason Dosch

Title: Roads Department Supervisor

Telephone No: 719 499 3030

Email Address: jasond@palmer-lake.org

Part 4: Facility Information

Have any areas been added or removed from the permit area due to annexation or other legal means?
 YES NO

If YES, provide the web address for an online map, below, or check "attached" below and **attach an updated map** labeled as "Part 4" that identifies the jurisdictional boundaries.

Provide the map's web address or indicate if a map is attached (if applicable): Attached

Part 5: Notice of Reliance on Third Party

Is the permittee relying on another entity to satisfy any of the permit obligations (if applicable) that has not been reported to the division in a previous report or permit application. YES NO

If YES, **attach a short narrative** labeled as "Part 5" identifying the permit requirement and the entity relied on.



7.B) Compliance Schedule Reporting - Required Annual Report Notifications

For all compliance schedule actions completed by January 1 of the year the report is due (including those actions completed prior to the reporting period), identify the date of completion. Refer to Part I.H of the permit.

Only complete those rows for which the deadline was met during the reporting period.

This table reflects all compliance schedule items for the permit term, which includes permit conditions that do not need to be met during the current reporting period.

Permit Condition	Action	Deliverable	Deadline	Date of Completion
I.C.1, and PDD content requirements in Parts I.D & E	Complete PDD (contents must reflect terms and conditions that are in effect, i.e., following the associated compliance schedule deadline)	Notification in annual report Due March 10, 2018	Completed January 1, 2018	
I.D.1	Public Involvement/Participation: Ensure requirements are met	Notification in annual report Due March 10, 2018	Completed January 1, 2018	
I.E.1	Public Education and Outreach: Ensure requirements are met	Notification in annual report Due March 10, 2019	Completed July 1, 2018	
I.E.2	Illicit Discharge Detection and Elimination: Ensure requirements are met	Notification in annual report Due March 10, 2020	Completed July 1, 2019	
I.E.3	Construction Sites: Ensure requirements are met.	Notification in annual report Due March 10, 2020	Completed July 1, 2019	
I.E.4	Post Construction: Ensure requirements are met.	Notification in annual report Due March 10, 2021	Completed July 1, 2020	
I.E.5	Municipal Operations: Ensure requirements are met, except for the requirement of Part I.E.5a.iii(C) (Bulk Storage)	Notification in annual report Due March 10, 2021	Completed July 1, 2020	
I.E.5.a.v	Outdoor Bulk Storage: Ensure requirements are met	Notification in annual report Due March 10, 2022	Completed July 1, 2021	12/20/2020

7.C) Assessment and Modifications

The following information must be reported in all Annual Reports, however it is possible that no control measures will be implemented prior to the reporting year 2018, based on the compliance schedule, and therefore it is acceptable to report that no control measures were implemented for reporting years 2016 and 2017.

i. The results of the assessment of the effectiveness of the control measures.

Provide a narrative based on the assessment required in Part I.G.1.b of the Permit. The permit does not identify the scope or scale of information required beyond this information, the permittee may determine the extent and nature of information provided to meet this requirement.

Provide information below, or check "attached" and **attach the information** labeled as "PART 7.C.i"

Attached

The Town of Palmer Lake created its MS4 Program in 2020. The Palmer Lake Municipal Code was updated on June 11, 2020. The updates included the regulatory mechanisms required to comply with Part I.E.2, 3, and 4 of the Permit. A Program Description Document (PDD) was completed in December 2020, and formally implemented by the Town Board of Trustees by Resolution on February 11, 2021.

Reporting year 2021 marks the first year of full implementation of the MS4 program for Town of Palmer Lake.

ii. The results of the permit modification assessment and if any parts of this permit need to be modified or a condition of the permit may not be practicable.

Provide a narrative based on the assessment required in Part I.G.1.c of the Permit. The permit does not identify the scope or scale of information required beyond this information, the permittee may determine the extent and nature of information provided to meet this requirement.

Provide information below, or check "attached" and **attach the information** labeled as "PART 7.C.ii"

Attached

The Town understands the current permit expired in 2021 and was administratively extended on June 31, 2021. No permit modifications are requested at this time.

7.D) Program Elements - Public Education and Outreach (Part I.E.1)

The following Program Elements must be reported on in Annual Reports for reporting years 2018 and later.

iii. List of the education and outreach activities completed in accordance with Part I.E.1.a.i. - Illicit Discharges Education and Outreach.

Provide list below.

The Town of Palmer Lake participated in a regional stormwater education and outreach campaign coordinated by the Colorado Stormwater and Council that included:

- Live TV Interviews
- Commercials
- Radio
- TV (broadcast & digital – KOAA & FOX21)
- Billboards/Bus/Bus benches.

iv. List of the education and outreach activities completed in accordance with Part I.E.1.a.ii. - Education and Outreach Activities Table, referencing the activities in Table 1 of the Permit.

The permittee must implement at least four education and outreach activities (bulleted items) and at least two must be from the Active and Interactive Outreach column. Check those activities conducted in the table below.

Passive Activity

Check all activities implemented during report year

- Bus shelter/bench advertisement
- Billboard/dasher board advertisement
- Vehicle/bus advertisement
- Radio/television/movie theater advertisement
- Newspaper advertisement
- Distribute educational materials by brochure
- Distribute educational materials by fact sheet
- Distribute educational material by utility bill insert
- Publish article (hard copy or electronic)
- Storm drain marking by permittee staff that maintains 25% of permittee maintained inlets.
- Stormwater related signage
- Web site

Active and Interactive Outreach Activity

Check all activities implemented during report year

- Ongoing advertisement/promotion of a stormwater hotline number or other method to report an illicit discharge
- Ongoing advertisement/promotion on how to get more information about the stormwater program
- Ongoing social media program
- Web site that is interactive or contains stormwater information that includes actions that can be taken to reduce stormwater pollution
- Newsletter (hard copy or electronic)
- Promotion of existing local stormwater/environmental events or program that help protect water quality
- Distribute promotional items or giveaways
- Participate in or sponsor a water festival which involves populations that exist within the permit boundary
- Participate in or sponsor a waterway clean-up and trash removal event
- Participate in or sponsor a service project
- Participate in or sponsor a stormwater or environmental presentation
- Participate in or sponsor a stormwater or environmental event
- Participate in or sponsor community project based programs that investigate watershed health and meet applicable school Science, Technology, Engineering and Math (STEM) standards

Continued on Next Page



Active and Interactive Outreach Activity Column, Continued

- Participate in or sponsor a household hazardous waste event
- Participate in or sponsor an Adopt-a-Street program
- Participate in or sponsor an Adopt-a-Waterway program
- Participate in or sponsor an Adopt-a-Storm Drain program
- Provide ongoing access to motor vehicle fluids recycling program
- Stormwater booth at a community event
- Conduct a stormwater survey
- Storm drain marking program performed by the public/community
- Pet waste stations
- Participate in, plan, or present stormwater materials to schools
- Stormwater demonstration projects that show control measures or other pollutant reduction methods

v. A list of the education and outreach activities completed in accordance with Part I.E.1.a.iii. - nutrients and targeted sources

Provide list below, including the pollutant sources targeted for each activity.

Nutrients education and outreach is targeted at DIY and Commercial Landscaping operations. Educational messages are included in the regional outreach campaign mentioned in Section 7.D.iii. above.



7.E) Program Elements - Illicit Discharge Detection and Elimination

The following Program Elements must be reported on in Annual Reports for reporting years 2019 and later.

<p>vi. Provide the total number of unresolved reports/identification of illicit discharges. An unresolved illicit discharge is one that has been identified or reported to the permittee and the requirements for removing the illicit discharge were not met during the reporting period. Refer to requirements for removing an illicit discharge in Part I.E.2.a.vi of the permit.</p>	<p>0</p>
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7.F) Program Elements - Construction Sites

The permittee can define what constitutes an individual "site" and "inspection" for reporting below as appropriate for the permittee's own program.

The following Program Elements must be reported on in Annual Reports for reporting years 2019 and later.

<p>i. Applicable construction sites: Provide the total number of applicable construction sites during the year. "Applicable construction sites" are sites for which "applicable construction activities," as defined in the permit, occurred during the reporting year.</p>	<p>1</p>
<p>ii. Routine Inspections: Provide the total number of Routine Inspections performed during the year. Routine Inspections are inspections of applicable construction activities that meet the inspection scope requirements in Part I.E.3.a.vi(C) and for which documentation is recorded in accordance with in Part I.E.3.b.vi.</p>	<p>1</p>
<p>iii. Reduced Site Inspections: Provide the total number of Reduced Site Inspections performed during the year. Reduced Site Inspections are inspections of applicable construction activities that meet the inspection scope requirements in Part I.E.3.a.vi(D)(1), (2), (3) and (4) for which documentation is recorded in accordance with in Part I.E.3.b.vi.</p>	<p>2</p>
<p>iv. Compliance Inspections: Provide the total number of Compliance Inspections performed during the year. Compliance Inspections are inspections or operator reporting or other action(s) to assess the control measure has been implemented or corrected) of applicable construction activities that meet the inspection scope requirements in Part I.E.3.a.vi(E) and for which documentation is recorded in accordance with in Part I.E.3.b.vi.</p>	<p>4</p>



7.G) Program Elements - Post-Construction Stormwater Management in New Development and Redevelopment Program

The permittee can define what constitutes an individual "site" and "control measure" for reporting below as appropriate for the permittee's own program.

The following Program Elements must be reported on in Annual Reports for reporting years 2020 and later.

<p>i. Applicable development sites: Provide the total number of applicable development sites for which control measures were implemented during the reporting period.</p>	0
<p>ii. Long-Term Operation and Maintenance and Post Acceptance Oversight: Provide the total number of applicable development sites and control measures inspected to ensure compliance with the requirement in Part I.E.4.a.vii.</p>	1

iii. Excluded Roadway Development Sites: Where any development is excluded from being an applicable development sites in accordance with the following permit conditions:

Pavement Management: Part I.E.4.a.i(A), except maintenance sites YES NO
 Roadway Redevelopment: Part I.E.4.a.i(B) YES NO
 Existing Roadway Areas Part I.E.4.a.i(C) YES NO

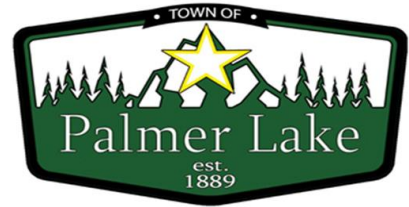
If YES to one or more of the above, **attach** a list of the excluded development sites, identifying which exclusion applied. Include the recordkeeping information required by I.E.4.b.ii. Label the attachment as "Part 7.G.iii Excluded Roadway Development."

Part 8: Required Certification Signature [Reg 61.4(1)(h)]

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

<p>Name (Legal Contact): William (Bill) Bass</p>	<p>Title: Mayor</p>
<p>Signature (Original Ink Signature):</p>	<p>Date signed:</p>





Item 16.

**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Resolution to Approve Residential Well Agreement for Mr. Brenneman (Hwy105)

Background

The enclosed residential well agreement allows Mr. Randy Brenneman to access water from the Dawson aquifer and includes standard language to meter and annually report usage to the Town. His property was recently rezoned to RA

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 5-2022

A RESOLUTION TO AUTHORIZE A RESIDENTIAL WELL AGREEMENT WITH RANDY BRENNEMAN FOR PARCEL 71090-00-061 LOCATED AT HWY 105, PALMER LAKE, COLORADO

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Town Board of Trustees has authority over residential well agreements for the Town; and

WHEREAS, the Town is unable to provide water service to the parcel identified as 71090-00-061 located off Hwy 105 owned by Randy Brenneman; and

WHEREAS, the property owner has provided a complete land use application to build on the property and requires approval for a residential well.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Town Board of Trustees hereby authorizes signature to a residential well agreement with Randy Brenneman as attached in Exhibit A.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 13th DAY OF JANUARY 2021.

ATTEST:

TOWN OF PALMER LAKE, COLORADO

Dawn A. Collins
Town Administrator/Clerk

BY: _____
William Bass
Mayor

WELL PERMIT AGREEMENT

THIS AGREEMENT is made this ___ day of January 2022 by and between the Town of Palmer Lake (hereinafter, "TOWN") and Randy Brenneman, parcel ID 71090-00-061 off Hwy 105, Palmer Lake (hereinafter "LANDOWNER") collectively referred to as "PARTIES."

RECITALS

WHEREAS, LANDOWNER is the owner of certain parcel 71090-00-061 off Hwy 105, Palmer Lake, within the boundaries of the TOWN, and with an address of 420 Hwy 105, Palmer Lake, Colorado.

WHEREAS, LANDOWNER is deemed to have consented to the withdrawal of ground water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the land described above pursuant to §§37-90-137(4)(b)(II)(C) and 37-90-337(8), C.R.S. and by virtue of Ordinance No. 8 of 1985, adopted by the Town Board of Trustees on August 26, 1985; and

WHEREAS, water service to the land described above is not reasonably available from the Town as of the date of this AGREEMENT; and

WHEREAS, LANDOWNER desires to construct a well to withdraw ground water from the Dawson aquifer underlying the land described above (the "WELL") to provide a water supply for domestic, in-house use only, for one (1) single-family residence on said land.

NOW THEREFORE, in consideration of the mutual covenants, conditions, and provisions herein, the TOWN and LANDOWNER agree as follows:

1. The TOWN hereby consents to the withdrawal by LANDOWNER of the ground water in the Dawson aquifer underlying the land described above for use in one (1) single-family residence only with no outside use allowed.
2. The TOWN does not warrant or represent to LANDOWNER that any amount of water is available, if any beneath the land described above, or the quality of that water. LANDOWNER agrees to indemnify and hold harmless the TOWN, its employees, agents, independent contractors, agents, and representatives harmless from any and all claims arising out of the installation, use, maintenance, operation, or otherwise, of the WELL.
3. LANDOWNER agrees that at such time as water service to the land described above is available from the TOWN, LANDOWNER shall disconnect the residence from the well, connect the residence to the TOWN's water facilities, pay the difference to the prevailing tap fee and additional typical fees charged to tap to the TOWN for new water service, and shall convey to the TOWN, without charge, by property executed deed, all water rights and ground water in the Dawson aquifer underlying said land.
4. LANDOWNER agrees to, at TOWN's sole discretion, plug and abandon the WELL at LANDOWNER's sole expense, or allow the TOWN to connect the WELL and all water facilities to the TOWN's water system. If the TOWN chooses to connect the WELL to its system, it shall pay LANDOWNER the value of the WELL and related water facilities to be used by the TOWN by purchase or condemnation.

- 5. LANDOWNER agrees any and all water mains LANDOWNER shall place on the land described above shall be at least 6” in diameter, schedule 40, plastic pipe with tracer wire, or be in compliance with any TOWN specifications in place at time of placement.
- 6. LANDOWNER agrees to install a meter to the WELL and, at least, annually present the reading to the TOWN Clerk for the previous year no later than January 31 of each year.
- 7. LANDOWNER shall be responsible for obtaining a well permit and all other government approval required to construct and use the WELL, and shall be solely liable for all construction, maintenance, and operation costs for the WELL.
- 8. This AGREEMENT shall constitute a covenant running with the land described above and shall be binding upon, inure to the benefit of and be enforceable by the respective heirs, successors and assigns of the TOWN and LANDOWNER. Either party hereto may record this AGREEMENT in the El Paso County real property records.
- 9. The PARTIES recognize that the TOWN is a Colorado Municipal Corporation. Nothing herein shall be construed as a waiver by the TOWN of any of the immunities, privileges, and defenses available to it under the Colorado Governmental Immunity Act, as may be amended from time to time, or arising under common law.

TOWN OF PALMER LAKE, COLORADO

MAYOR

ATTEST:

Dawn A. Collins
Town Administrator / Clerk

LANDOWNER:

Randy Brenneman

RESIDENTIAL Note: Also use this form to apply for livestock watering
Water Well Permit Application
 Review form instructions prior to completing form.
 Hand completed forms must be completed in black or blue ink or typed.

1. Applicant Information

Name(s) Randy Brenneman
 Mailing address 3433 Julian St
 City Denver State CO Zip code 80211
 Telephone (w/area code) 720 984 8565 E-mail Rbrenneman@fitchbur.com

2. Type Of Application (check applicable boxes)

Construct new well Change source (aquifer)
 Replace existing well Reapplication (expired permit)
 Use existing well Rooftop precip. collection
 Change or increase use Other:

3. Refer To (if applicable)

Well permit # _____ Water Court case # _____
 Designated Basin Determination # _____ Well name or # _____

4. Location Of Proposed Well (Important! See Instructions)

County EL Paso SW 1/4 of the NW 1/4
 Section 9 Township 11 N or S R Range 67 E or W Principal Meridian 6th
 Distance of well from section lines (section lines are typically not property lines)
1560 Ft. from N S 1000 Ft. from E W
 For replacement wells only - distance and direction from old well to new well
 feet _____ Direction _____

Well location address (include City, State, Zip) Check if well address is same as in item 1.

Optional: GPS well location information in UTM format. GPS unit settings are as follows:

Format must be UTM
 Zone 12 or Zone 13
 Units must be Meters
 Datum must be NAD83
 Unit must be set to true north
 Was GPS unit checked for above? YES
 Easting: 508503
 Northing: 4329037
 Remember to set Datum to NAD83

5. Parcel On Which Well Will Be Located

(You must attach a current deed for the subject parcel)

A. You must check and complete one of the following:

Subdivision. Name _____
 Lot _____ Block _____ Filing/Unit _____
 County exemption (attach copy of county approval & survey)
 Name/# _____ Lot # _____
 Parcel less than 35 acres, not in a subdivision attach a deed with metes & bounds description recorded prior to June 1, 1972, and current deed
 Mining claim (attach copy of deed or survey) Name/#: _____
 Square 40 acre parcel as described in Item 4
 Parcel of 35 or more acres (attach metes & bounds description or survey)
 Other: (attach metes & bounds description or survey)

B. # of acres in parcel _____ C. Are you the owner of this parcel?
 YES NO

D. Will this be the only well on this parcel? YES NO (if no - list other wells)

E. State Parcel ID# (optional): 71090-00-061

6. Use Of Well (check applicable boxes)

See instructions to determine use(s) for which you may qualify

A. Ordinary household use in one single-family dwelling (no outside use)
 B. Ordinary household use in 1 to 3 single-family dwellings.
 Number of dwellings: one
 Home garden/lawn irrigation, not to exceed one acre:
 area irrigated _____ sq. ft. acre
 Domestic animal watering - (non-commercial)
 C. Livestock watering (on farm/ranch/range/pasture)

7. Well Data (proposed)

Maximum pumping rate 15 gpm Annual amount to be withdrawn _____ acre-feet
 Total depth 400 feet Aquifer Dawson

8. Water Supplier

Is this parcel within boundaries of a water service area? YES NO
 If yes, provide name of supplier: Palmer Lake

9. Type Of Sewage System

Septic tank / absorption leach field
 Central system: District name: _____
 Vault: Location sewage to be hauled to: _____
 Other (explain) _____

10. Proposed Well Driller License #(optional): 8

11. Sign or Enter Name of Applicant(s) or Authorized Agent

The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104 (13)(a). I have read the statements herein, know the contents thereof and state that they are true to my knowledge.

Sign or enter name(s) of person(s) submitting application _____ Date (mm/dd/yyyy) 08/23/12
 If signing print name and title

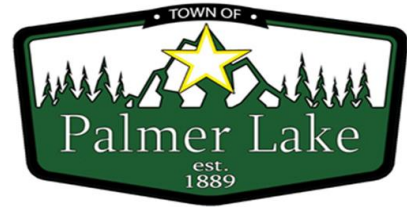
Randy Brenneman owner

Office Use Only

USGS map name _____ DWR map no. _____ Surface elev. _____

Receipt area only

AQUAMAP
 WE
 WR
 CWCB
 TOPO
 MYLAR
 SB5
 DIV _____ WD _____ BA _____ MD _____



**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

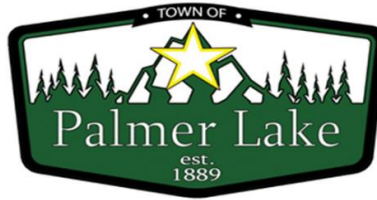
DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Review of Improved Water Billing

Background

Staff wanted to take an opportunity to generally report the improvement of the AMCOBI water billing for the water town accounts.

Enclosed is a memo describing the course of events. In summary, reports are now available to assist in addressing issues that the Town had no evidence of existence. This modification, though a bit of adjustment for long time water customers, has recouped thousands of dollars to the Town; and it allows staff to be pro-active to assist customers.

I want to personally thank you, Board members, for supporting the water billing change as well as share my gratitude to Tish, Christi, Toni and Julia for working through this new process.



Administrative Memo

Date: December 28, 2021

To: Dawn Collins, Town Clerk

From: Julia Stambaugh, Deputy Town Clerk

Subject: Improved Water Billing

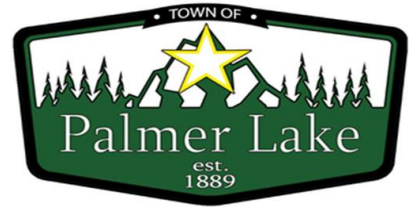
In October 2020, the Town began the search for a new water billing service. Our old software interface was archaic, not intuitive, and had several bugs. In that system, much of the meter reading prep and import, and the billing process, was in-house, rather tedious, and regularly has issues that demand hours of staff attention. That system did not provide any of the conveniences customers demand today, such as account access, emailed bills, and historical data & graphs on their bills.

Our new water billing service with American Conservation & Billing Solutions is primarily a data management system for utilities. It is a modern, web-based system and offers complete customer service while also providing a portal for town staff. The system interfaces directly with the meter read system, and any issues are managed by the provider. The creation of bills is done by the provider according to our specifications. The bills can be emailed and/or printed and postal mailed by the provider. The bills are modern, easy to read, provide rate detail and historical information. Their payment options are similar to other utility services. However, the autopay charges are about half of what was charges under the previous service. The provider can handle all resident calls and can “escalate” to town staff based on our requirements.

This new service had major benefits to the staff and the residents. There was a huge improvement in the accuracy and accessibility of the data, the level of information and service to the residents, autopay savings, and staff time savings.

Along with these advancements has come a new look at the water billing data. We are able to track the water use and payment history on all accounts. With these new reports, we are able to see accounts with no usage or other with too much usage. We are now running aging reports, which help identify delinquent accounts. To that end, Tish is able to, on a monthly basis, reach out to these customers to encourage them to bring their accounts up to current. Starting with the February 2021 aging report there was a total of \$25,541.29 in outstanding billings, with \$10,256.06 at 60 to over 120 days. As of November, there was a total of \$13,145.29 in outstanding billings, with \$3,723.19 at 60 to 120 days.

These reports are also giving us the ability to capture lost revenues. We discovered accounts which were only paying base rate, and not being charged for water usage. We found properties with a water tap, but were not paying their base rate, per ordinance. The reports also revealed broken meters, that were going undetected, allowing water use to flow unmetered.



Item 18.

**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Review of Draft 2022 Master Fee Schedule

Background

Staff wanted to take this meeting to review a draft of the 2022 master fee schedule for the Town. There are a few additions of permits/applications as well as increase in fees, as noted appropriately in the remarks column.

Please reach out with any questions about the fees, or offer suggestions, to properly finalize the schedule for adoption at the Jan-27th Board meeting.

TOWN OF PALMER LAKE FEE SCHEDULE

	FEE	Code Ref:	REMARKS/CHANGE:
ADMINISTRATION - LICENSES & PERMITS			
BUSINESS LICENSE		Ch 5.02	
New Application	\$75		<i>Increased new (criminal check)</i>
Annual Renewal	\$50		
SIGN PERMIT	\$100		
SHORT TERM RENTAL		Ch 5.10	<i>New application process - includes annual "business"</i>
Class 1 owner occupied			
New Application	\$250		
Annual Renewal	\$150		
Class 2 non-owner occupied			
New Application	\$500		
Annual Renewal	\$300		
OUTDOOR AMPLIFIED SOUND EVENT PERMIT	\$0		
LIQUOR SPECIAL EVENT PERMIT (non-profit ONLY)	\$100 / day		
LIQUOR LICENSE - Local Application & License Fee		Ch 5.50	<i>Added fees for "changes" of licensing - admin review</i>
<i>*See Colorado Department of Revenue (Fee to State - New & Annual Renewal)</i>			
https://sbg.colorado.gov/liquor			
<i>*Meet with Town Clerk for NEW application packet including all respective fees</i>			
New License Application	\$1,000		
Application with Concurrent Review (with State)	\$1,000		
Transfer of Ownership	\$750		
Change of Location	\$750		
Renewal Application	\$100		
Late Renewal Fee (90 days of expiration)	\$500		
Corporation/LLC Change - Legal Entity	\$100		
Manager Registration	\$75		
Take Out / Delivery Permit	\$15		<i>New permit application per LED - track "delivery"</i>
Local License Fee - Restaurant/Lodging/Tavern (depends on license type)	\$75		
MARIJUANA LICENSE - Local Fee		Ch 5.30	<i>Increased fees and added fees for changes to license</i>
<i>*See Colorado Department of Revenue (Fee to State - New & Annual Renewal)</i>			
https://sbg.colorado.gov/marijuana-enforcement			
<i>*Meet with Town Clerk for NEW application packet</i>			
New/Annual Renewal Application Fee	\$1500 / ea		
New/Annual Renewal License Fee	\$2500 / ea		
Change - Modification of Premises	\$1,500		
Change of Legal Structure (Member)	\$1,500		
Transfer of Ownership	\$2,500		
DUPLICATE LICENSE FEE	\$10		
LATE RENEWAL FEE > 30 DAYS	\$15		
SOLICITOR/PEDDLER PERMIT	\$25 / day	5.12/16	
SPECIAL EVENT PERMIT	\$100 / event		
<i>*Application Fee in addition to rental fees</i>			
TOWN PROPERTY - RESERVATION & RENTAL FEES			
<i>Modified to reflect non-resident, 4-hr vs full day</i>			
VILLAGE GREEN / GAZEBO			
Resident - minimum 4 hour	\$50 / 4-hr		
Resident - full day	\$100 / day		
Non-resident - minimum 4 hour	\$75 / 4-hr		
Non-resident - full day	\$150 / day		
CENTENNIAL PARK / GAZEBO			
Resident	\$75 / day		
Non-resident	\$100 / day		
PALMER LAKE PAVILION			
Resident - minimum 4 hour	\$50 / 4-hr		
Resident - full day	\$100 / day		
Non-resident - minimum 4 hour	\$75 / 4-hr		
Non-resident - full day	\$150 / day		
GLEN PARK / PICNIC AREA			
Resident	\$50 / day		
Non-resident	\$75 / day		
NON-REFUNDABLE (PORTION) RESERVATION FEE	\$25		<i>Added non-refundable "holding" fee if cancelled</i>
PLUS DAMAGE DEPOSIT FOR PROPERTY (Refundable)	\$75		
ROCKIN RAILS DISC GOLF COURSE			

TOWN OF PALMER LAKE FEE SCHEDULE

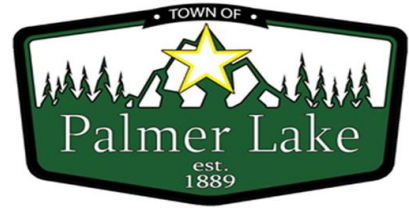
	FEE	Code Ref:	REMARKS/CHANGE:
Special Event	\$150 / day		
League Play (criteria)	\$250 / year		
REFUNDABLE DAMAGE DEPOSIT	\$250 / event		
HISTORIC TOWN HALL			
Rental Event by Hour	\$50 / hour		
Non-Profit Event	\$25 / event		
RENTAL: Round Tables (10) & Chairs (100)	\$250 / event		
Set: 1 table & 10 chairs	\$25 / set		
Town Hall Maint/Utility Fee	\$65 / event		<i>Added maint/utility fee for use of kitchen</i>
Kitchen - Pilot Lighting	\$25 / event		
GLEN TRAILHEAD PARKING	\$5 / day		
<i>*Holiday parking may be modified</i>			
PUBLIC WORKS & WATER FEES			
NEW WATER TAP/LINE SET	\$21,218.00	Ch 13.01	<i>3% increase per Resolution reflected</i>
Meter (with accessories and inspection)	\$650.00		
<i>Coordinate with Water Department for inspection</i>			
Meter Size (minimum bill/mo)			
3/4" (or smaller)	66.75 / mo		
1"	87.68 / mo		
1.5"	122.88 / mo		
2" (and larger)	165.14 / mo		
Water Usage Rate (meters read in 100 gl increments)			
1-4999 gl	0.785 / 100 gl		
5000-9999 gl	0.942 / 100 gl		
10,000-99,999 gl	1.131 / 100 gl		
<i>Water Tap, Meter Size, Usage Rate Subject to Annual 3% Increase per 2019 Resolution</i>			
LATE PAYMENT FEE	\$15 / mo		
PAST DUE INTEREST RATE (water charge only)	18% / yr		
SHUT OFF / TURN ON DUE TO NON PAYMENT	\$20 / incident		
SHUT OFF / TURN ON SERVICE CALL DURING BUSINESS HOURS	\$0		
NON-EMERGENCY SERVICE CALL	\$45 / incident		
EMERGENCY SERVICE CALL	\$0		
RESIDENTIAL WELL PERMIT (subject to \$15,000 drilling allowance)	\$21,218.00		
STREET CUT PERMIT (ROW)	\$200		<i>Removed additional per foot formula - flat fee</i>
DEMOLITION PERMIT	\$100		
LAND USE APPLICATIONS			
<i>*Fee PLUS applicable land use calculated fees/application</i>		Ch 16	
NEW CONSTRUCTION (Building Permit)	\$200+		
OTHER (Remodel, Re-roof, Deck, etc)	\$50+		
PRELIMINARY PLAT	\$500+		
FINAL PLAT	\$500+		
MASTER PLAN	\$1,000+		
MINOR SUBDIVISION (less than 5 parcel)	\$750+		
REPLAT APPLICATION	\$500+		
ROW VACATION	\$500+		
PLANNED UNIT DEVELOPMENT (PUD) REQUEST	\$1,000+		
ANNEXATION REQUEST	\$1,000+		
CONDITIONAL USE	\$250		
VARIANCE REQUEST	\$400		
REZONING REQUEST	\$500		
ADMINISTRATION - OTHER FEES			
NOTARY SERVICE	\$0		
LATE FEE / MONTH (after 30 days as applicable)	\$15		
NSF FEE (Includes bank service fee, if applicable)	\$29		
PUBLIC RECORD / CORA			
Letter size (b/w photocopy - pg 1-5 no cost)	\$0.25 / Pg > 6		
Legal or larger b/w photocopy	\$0.50 / Pg		
FAX Transmittal	\$2 / Pg		
Document certification	\$5 / Cert		
Portable media - CD/DVD/Flash Drive	Actual Cost		

TOWN OF PALMER LAKE FEE SCHEDULE

	FEE	Code Ref:	REMARKS/CHANGE:
Research, Retrieval, Data Manipulation (1st hour no cost)	\$30 / hr		
US First Class Mail requested	USPS rate		
FIRE SERVICES			
PLAN REVIEW			<i>Proper review to be reflected on revised applications</i>
Subdivision/Development Plans	\$500		
	\$750		
Single Family Residence (1 inspection)	\$0		
Tenant Finish/Remodel (Non-single Family)			
< 1500 SF	\$174		
1500 - 5000 SF	\$312		
5001 - 10,000 SF	\$1,521		
10,001 - 50,000 SF	\$1,782		
50,001 - 100,000 SF	\$2,673		
> 100,001 SF	\$6,855		
New Building/Addition (Non-single Family)			
< 3000 SF	\$480		
3001 - 5000 SF	\$754		
5000 - 10,000 SF	\$1,521		
10,001 - 50,000 SF	\$1,782		
50,001 - 100,000 SF	\$2,673		
> 100,001 SF	\$6,855		
FIRE INSPECTION			
Fire Protection/Alarm Systems	\$125		<i>Added based on 2021 adoption of Fire Code</i>
	Plus \$1.25 / device		
	See CSFD fee schedule		
Kitchen Hood/Duct System	\$125		
Re-inspection per incident (permitted project)	\$106		
Variance Request	\$500		
Work at Risk	\$137		
Nuisance (after 5th call)	\$325 / call		
Fire Watch (minimum 2 hours)	\$138 / hr		
Site Safety Inspection	\$50		
POLICE SERVICES			
INK FINGERPRINTS	\$20		
VIN VERIFICATION	\$10		
VIN VERIFICATION FOR ADDITIONAL VEHICLE(S)	\$5		
<i>Check or Money Order - Payable to Town of Palmer Lake</i>			
<i>Credit Card payment at www.townofpalmerlake.com (MUST specify what payment is for)</i>			
<i>Coordinate appointment with Police: Call 719-481-2934</i>			
PUBLIC SAFETY RECORD REQUESTS			
Traffic Accident Reports	\$10		
Case Reports (1-10 pages)	\$15		
Case Reports (page 11 and after)	\$0.25 / pg		
Research/Retrieval of Records (1st hour free)	\$30 / hour		
Digital Video/Audio/Photograph copies	\$25		
Research/Retrieval of Records (1st hour free)	\$30 / hour		
All 3rd Party Printing	Actual cost		
MUNICIPAL COURT			
COURT COST	\$30		
DOCKET FEE	\$10		<i>Added docket fee (admin cost)</i>
OJW FEE	\$30		
WARRANT FEE (determined by Municipal Judge)	\$300-800		
CITATION SCHEDULE			
IMPOUNDING ANIMALS			<i>Addition of particular code citations</i>
		7.04.050	<i>NOTE: request by Municipal Judge, align w/Monument</i>
Redeem Fee	\$40		
Additional Fee within 12 months	\$60		
DOGS			7.08.130
1st offense	\$45		

TOWN OF PALMER LAKE FEE SCHEDULE

	FEE	Code Ref:	REMARKS/CHANGE:
2nd offense	\$75		
3rd offense	\$100		
VICIOUS DOG		7.08.070 - 080	
1st offense	\$75		
2nd offense	\$100		
3rd offense	\$150		
DOMESTICATED POULTRY & FOWL (PETS)		7.09.010 - 125	
1st offense	\$45		
2nd offense	\$75		
3rd offense	\$100		
FEEDING OR ATTRACTING GAME WILDLIFE		7.10.010	
1st offense	\$100		
2nd offense	\$500		
3rd offense	\$1,000		
JUNKYARD AND DUMPING GROUNDS		8.05.020	
1st offense followed by 8.04.040 Abatement	\$250		
NUISANCES BY CODE		8.05.030 - 140	
1st offense	\$45		
2nd offense	\$75		
3rd offense	\$100		
ABATEMENT		8.04.040	
Actual cost plus daily citation not resolved	\$100		
FALSE ALARM		9.04.030	
1st offense followed by charge under C.R.S. 18-8-111	\$500		
TRAFFIC VIOLATION			
Per adopted current Model Traffic Code			



Item 19.

**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 13 2022	ITEM NO.	SUBJECT:
Presented by: Town Administrator /Clerk		Review of De Annexation, Set Public Hearing

Background

Staff received information from El Paso County relating to the de-annexation of approximately 162 acres of undeveloped land in the Town, owned by United Congregational Church. Attorney Krob will address the de-annexation process at the meeting.



Civil Engineering

Surveying & Geospatial Services

Water Resources Management

GIS Services

Construction Management

December 16, 2021

RE: Letter of Intent - Ben Lomand Mountain Village Disconnection/De-annexation

Owner/Applicant:
 United Congregational Church
 Attn: Roger Sung, Pastor/ President
 3195 County Line Road
 Monument, CO 80132
 (719) 332-2607
ptgmountain@gmail.com

Consultant:
 Manhard Consulting
 Attn: Matt Buster, PE
 7600 E. Orchard Road, Suite 150-N
 Greenwood Village, CO 80111
 (303) 880-1908
mbuster@manhard.com

Ben Lomand Mountain Village (the "Property") includes approximately ± 344.60 acres of land located within El Paso County, Colorado, in portions of Sections 3, 4 & 5, Township 11 South, Range 67 West of the 6th P.M. The westerly ± 162.26 -acre portion of the Property currently lies within the Town of Palmer Lake (the "Town") and is the subject of the requested de-annexation application. The owner/applicant is requesting to disconnect/de-annex all portions of the property lying within the Town such that upon completion and Town approval of the de-annexation, all portions of the property will lie within unincorporated El Paso County (the "County"). Upon successful de-annexation from the Town, the owner/applicant intends to rezone the entire ± 344.60 acres within El Paso County to RR-2.5 in accordance with the El Paso County General Zoning District standards.

The Property to be de-annexed lies south of County Line Road, also known as Palmer Divide Road, north of Cathedral Drive and the Lakeview Heights subdivision, east of Oakdale Drive and the Lakeview Heights subdivision, and west of the northeast quarter of said Section 4. The Property is comprised of three El Paso County tax ID parcels varying in size and zoning. The three parcels located within the Town include two parcels zoned RA (Residential Agricultural – 5 Acres) and one zoned R10,000 (Single-Family Residential – 10,000sf minimum) as summarized in the table below.

Parcel Summary Table			
Parcel ID	Area (acres)	Jurisdiction	Existing Zoning
7105424044	14.40	Town of Palmer Lake	RA
7104200012	141.93	Town of Palmer Lake	RA
7104237002	0.71	Town of Palmer Lake	R10,000

The ± 162.26 -acre Property consists largely of vacant undeveloped land which includes Ben Lomand Mountain consisting of steep topography, heavy forest, and rock ledges and outcroppings. From the southern property line, the mountain slopes upward from south to north to a sharp ridgeline. The ridgeline runs in the east-west direction and has a dirt, fire access road graded along the top of ridge. From this ridge line, Ben Lomand Mountain falls sharply to the north toward Spruce Avenue and the Town of Palmer Lake political subdivision.

As a condition of the petition to disconnect/de-annex from the Town, the owner/applicant will retain the underlying groundwater rights associated with the subject property and will be governed by the rules and regulations of unincorporated El Paso County.

If you have any questions, please feel free to contact me either via telephone at (303) 880-1908 or via email, mbuster@manhard.com.

Thank you,
MANHARD CONSULTING



Matt Buster, PE
Regional Manager

