# City Council

## *Agenda*

**AMENDED AGENDA**

**Tuesday, March 17, 2020**
**City Hall**
**749 Main Street**
**6:00 PM**

***This meeting will be held remotely. Residents interested in listening to the meeting may join one of the following ways:***

***Join Zoom Meeting***
***https://zoom.us/j/796994342***
***Meeting ID: 796 994 342***

***Dial in:***
***+1 312 626 6799 US***
***+1 253 215 8782 US***
***+1 301 715 8592 US***
***Meeting ID: 796 994 342***

***The council will use the call-in platform to accommodate public comments as best we can.***

***A recording of the call will be made available on the City's website following the meeting.***

***Residents who have comments for the Council may send them to Council@LouisvilleCO.gov.***

## 1. CALL TO ORDER

## 2. PLEDGE OF ALLEGIANCE

## 3. APPROVAL OF AGENDA

## 4. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA AND ITEMS ON THE CONSENT AGENDA

Council requests that public comments be limited to 3 minutes. When several people wish to speak on the same position on a given item, Council requests they select a spokesperson to state that position.

## 5. CONSENT AGENDA

The following items on the City Council Agenda are considered routine by the City Manager and shall be approved, adopted, accepted, etc., by motion of the City Council and roll call vote unless the Mayor or a City Council person specifically requests that such item be considered under "Regular Business." In such an event the item shall be removed from the "Consent Agenda" and Council action taken separately on said item in the order appearing on the Agenda. Those items so approved under the heading "Consent Agenda" will appear in the Council Minutes in their proper order.

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**Citizen Information**

If you wish to speak at the City Council meeting, please fill out a sign-up card and present it to the City Clerk.

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager's Office at 303 335-4533. A forty-eight-hour notice is requested.

**A.** Approval of Bills
**B.** Approval of Minutes: February 25, 2020; March 3, 2020
**C.** Award Contract for Construction Services for Heritage Park Restroom Renovation and Cleo Mudrock Dugout Roofing Project
**D.** Approval of Second Amendment to Street Faire License Agreement
**E.** Approval of Resolution No. 21, Series 2020 – A Resolution Approving an Intergovernmental Agreement Between the Colorado Department of Transportation and the City of Louisville Concerning a Grant for the At-Grade Crossing Improvements at Five Pedestrian Crossing Intersections Along South Boulder Road
**F.** Approval of Resolution No. 22, Series 2020 – A Resolution Approving and Intergovernmental Agreement Between the Colorado Department of Transportation and the City of Louisville Concerning a Grant for the Conceptual Design Plan for the State Highway 42 Multimodal Improvements Project
**G.** Approval of Resolution No. 23, Series 2020 – A Resolution Approving a Contract Between the Colorado Department of Transportation and the City of Louisville Concerning a Grant for the Rock Creek and Coal Creek Trail Connection
**H.** Approval of Landscape Maintenance Services Contract
**I.** Approval of Resolution No. 24, Series 2020 – A Resolution Establishing a Cottonwood Park Task Force to Provide Advisory Recommendations on the Master Plan for Cottonwood Park
**J.** Approval of Resolution No. 25, Series 2020 – A Resolution Approving a Public Infrastructure Assistance Agreement Between the City of Louisville, the Louisville Revitalization Commission, and 824 South, Inc.

## 6. COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA (Council general comments are scheduled at the end of the Agenda.)

## 7. CITY MANAGER'S REPORT

## 8. REGULAR BUSINESS

### A. APPOINTMENT OF PRESIDING MUNICIPAL JUDGE AND DEPUTY MUNICIPAL JUDGES

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

## 9. CITY ATTORNEY'S REPORT

## 10. COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

## 11. ADJOURN

CASH ACCOUNT: 001000 101001 WARRANT: 022720 02/27/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 14164 | ALPINE BANK | #5300177601 SOLAR PANEL L | 5,429.18 |
| 14164 | ALPINE BANK | #5300089001 SOLAR PANEL L | 3,729.33 |
| 11298 | DELTA DENTAL OF COLORADO | #007562-0000 MAR 20 EMPLO | 14,262.85 |
| 5255 | FAMILY SUPPORT REGISTRY | Payroll Run 1 - Warrant 0 | 312.49 |
| 6455 | KAISER PERMANENTE | 05920-01-16 MAR 20 EMPLOY | 156,382.07 |
| 9750 | LEGALSHIELD | #22554 FEB 20 EMPLOYEE PR | 399.70 |
| 7735 | LINCOLN FINANCIAL GROUP | 000020008469 MAR 20 LTD P | 3,725.72 |
| 7735 | LINCOLN FINANCIAL GROUP | 000010008469 MAR 20 LIFE/ | 7,185.01 |
| 14725 | REMY RODRIGUES | EXPENSE REPORT 1/6-2/24/2 | 77.45 |
| 8442 | VISION SERVICE PLAN | 12 059727 0001 MAR 20 EMP | 3,015.05 |
| 3875 | XCEL ENERGY | JAN 20 GROUP ENERGY | 65,520.29 |
| | 11 INVOICES | WARRANT TOTAL | 260,039.14 |

CASH ACCOUNT: 001000 101001 WARRANT: 030520 03/05/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 14154 | ALLSTREAM | MAR 20 PHONE CIRCUITS | 941.04 |
| 14901 | ARICK RINALDO | SWEET SPOT VENT HOOD REPA | 550.00 |
| 14921 | ASHLEY STOLZMANN | TRAVEL ADVANCE 3/10-3/13/ | 304.75 |
| 14712 | GOLF GENIUS SOFTWARE LLC | 2020 Golf Genius Subscrip | 2,700.00 |
| 14604 | MEGAN DAVIS | TRAVEL ADVANCE 3/10-3/13/ | 304.75 |
| 3735 | PETTY CASH - TAMMY HAPPOLDT | PETTY CASH FRONT DESK | 292.53 |
| | 6 INVOICES | WARRANT TOTAL | 5,093.07 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 14907 | A & A SHEET METAL PRODUCTS INC | Golf Course Chemical Stor | 12,126.50 |
| 14307 | A & J GARAGE DOORS INC | GARAGE DOOR REPAIR GCM | 1,326.00 |
| 14121 | ACUSHNET COMPANY | 2020 Resale Merchandise | 1,778.55 |
| 14121 | ACUSHNET COMPANY | 2020 Resale Merchandise | 3,196.78 |
| 14391 | ADAM M GOLLIN | PROSECUTING ATTORNEY LLA | 1,466.40 |
| 12890 | ADAMSON POLICE PRODUCTS | UNIFORM PANTS HIMES | 50.00 |
| 12890 | ADAMSON POLICE PRODUCTS | UNIFORMS HIBL | 96.24 |
| 12890 | ADAMSON POLICE PRODUCTS | DETECTIVE JACKETS | 606.00 |
| 12890 | ADAMSON POLICE PRODUCTS | BALLISTIC VEST HIBL | 950.00 |
| 14547 | ADIDAS AMERICA INC | 2020 Resale Merchandise | 333.33 |
| 14547 | ADIDAS AMERICA INC | 2020 Resale Merchandise | 1,272.03 |
| 14547 | ADIDAS AMERICA INC | STAFF UNIFORMS GC | 330.74 |
| 14547 | ADIDAS AMERICA INC | 2020 Resale Merchandise | 1,042.51 |
| 6113 | AMERICAN TRAFFIC SAFETY SERVIC | 2020 ATSSA MEMBERSHIP | 400.00 |
| 14623 | ANOTHER MILESTONE LLC | CONTRACTOR FEES SPORTS CA | 563.50 |
| 10801 | BADGER METER INC | METER BODY | 2,310.63 |
| 500 | BAKER AND TAYLOR | ADULT BOOKS AND MEDIA | 8.25 |
| 500 | BAKER AND TAYLOR | ADULT BOOKS AND MEDIA | 24.75 |
| 500 | BAKER AND TAYLOR | ADULT BOOKS AND MEDIA | 19.25 |
| 13855 | BIG AIR JUMPERS | Inflatables Nite @ the Re | 693.00 |
| 13855 | BIG AIR JUMPERS | Inflatables Nite @ the Re | 395.00 |
| 13855 | BIG AIR JUMPERS | Inflatables Nite @ the Re | 432.00 |
| 640 | BOULDER COUNTY | JAN 20 GATE FEE | 5,651.10 |
| 640 | BOULDER COUNTY | FEB 20 BOULDER COUNTY USE | 63,685.10 |
| 7706 | BRANNAN SAND & GRAVEL CO LLC | ASPHALT | 66.00 |
| 7706 | BRANNAN SAND & GRAVEL CO LLC | ASPHALT | 66.00 |
| 7706 | BRANNAN SAND & GRAVEL CO LLC | ASPHALT | 89.32 |
| 14850 | BRIDGEPAY NETWORK SOLUTIONS LL | FEB 20 BRIDGEPAY CC FEES | 10.00 |
| 10900 | CAROL CREECH | EXPAND NON-RESIDENT FEES | 228.00 |
| 935 | CENTENNIAL PRINTING CO | BUSINESS ENVELOPES HR | 150.00 |
| 935 | CENTENNIAL PRINTING CO | BUSINESS ENVELOPES FIN | 185.00 |
| 935 | CENTENNIAL PRINTING CO | BUSINESS CARDS WEATHERLY | 55.00 |
| 10773 | CENTRIC ELEVATOR CORP | MAR 20 ELEVATOR MAINT CH | 306.18 |
| 10773 | CENTRIC ELEVATOR CORP | MAR 20 ELEVATOR MAINT RSC | 300.96 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 10773 | CENTRIC ELEVATOR CORP | MAR 20 ELEVATOR MAINT LIB | 511.33 |
| 10773 | CENTRIC ELEVATOR CORP | MAR 20 ELEVATOR MAINT PC | 280.04 |
| 14688 | CESCO LINGUISTIC SERVICES | SWAHILI INTERPRETER | 203.64 |
| 13352 | CGRS INC | FUEL SYSTEM COMPLIANCE | 1,355.00 |
| 2220 | CHEMTRADE CHEMICALS US LLC | Alum Sulfate SWTP | 4,780.19 |
| 14427 | CHRISTINE STANDEFER | CONTRACTOR FEES TRI TRAIN | 159.60 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WWTP | 50.64 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WWTP | 50.64 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WWTP | 50.64 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WWTP | 50.64 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WTP | 241.08 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WTP | 244.95 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WTP | 244.95 |
| 4785 | CINTAS CORPORATION #66 | UNIFORM RENTAL WTP | 244.95 |
| 14849 | CLEMENTINE TOWNHOMES LLC | Clementine Commons Reimbu | 36,380.00 |
| 14118 | CLUB PROPHET SYSTEMS | Mar 20 Club Prophet Subsc | 610.00 |
| 14118 | CLUB PROPHET SYSTEMS | Feb 20 Club Prophet Subsc | 610.00 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 143.00 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 51.30 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 140.00 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 140.00 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 35.00 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 175.00 |
| 1120 | COLORADO ANALYTICAL LABORATORI | LAB ANALYSIS FEES WTP | 766.00 |
| 11016 | COLORADO ASPHALT SERVICES INC | COLD ASPHALT | 875.00 |
| 14636 | COLORADO COMMUNITIES FOR CLIMA | 2020 CC4CA MEMBERSHIP | 5,000.00 |
| 10329 | COLORADO DEPT OF HUMAN SERVICE | STATE CAMP LICENSE FEE #2 | 410.00 |
| 1130 | COLORADO DEPT OF LABOR | BOILER INSPECTIONS | 810.00 |
| 11353 | COLORADO LIBRARY CONSORTIUM | CONSUMER REPORTS | 1,372.16 |
| 13370 | CRIBARI LAW FIRM, PC | FEB 20 PROSECUTING ATTORN | 3,653.00 |
| 7760 | DBA OF LOUISVILLE | 2020 STREET FAIRE MANAGER | 25,000.00 |
| 13685 | DEWBERRY ENGINEERS INC | PROGRAMMING WORK | 2,493.80 |
| 13843 | DIETZE AND DAVIS, PC | FEB 20 MUNICIPAL JUDGE SE | 2,600.00 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 6856 | DRY CREEK #2 DITCH COMPANY | 2020 DRY CREEK ASSESSMENT | 2,793.75 |
| 10885 | EATON SALES & SERVICE LLC | FUEL TANK REPAIR | 1,095.79 |
| 11468 | EMPLOYERS COUNCIL SERVICES INC | CUSTOM EMPLOYEE SURVEY | 250.00 |
| 14893 | FLATIRONS STUMP REMOVAL | STUMP REMOVAL | 993.00 |
| 14070 | FORENSIC TRUTH VERIFICATION GR | PRE-EMPLOYMENT POLYGRAPH | 140.00 |
| 14888 | FRANKLIN COVEY CLIENT SALES IN | ALL ACCESS PASS SEAT EXPA | 188.18 |
| 13069 | GLACIER CONSTRUCTION CO INC | SCWTP Onsite Chlorine Gen | 242,535.00 |
| 2280 | GOODHUE DITCH AND RESERVOIR CO | 2020 GOODHUE ASSESSMENT | 311.64 |
| 2280 | GOODHUE DITCH AND RESERVOIR CO | 2020 GOODHUE ASSESSMENT | 18,039.14 |
| 2310 | GRAINGER | PHOTOCONTROLS CS | 53.54 |
| 2310 | GRAINGER | FLOOR SAFETY SIGN WTP | 58.05 |
| 2310 | GRAINGER | MULTIMETER WTP | 197.80 |
| 2310 | GRAINGER | DISPOSABLE GLOVES WTP | 19.60 |
| 2310 | GRAINGER | WASH BOTTLES WTP | 58.65 |
| 246 | GREEN MILL SPORTSMAN CLUB | RANGE USE | 150.00 |
| 2405 | HACH COMPANY | Hach Service Agreement WT | 29,739.73 |
| 2405 | HACH COMPANY | PH CHEMKEYS WTP | 31.84 |
| 2405 | HACH COMPANY | PH PROBES WTP | 375.48 |
| 14815 | HPM INC | Playground Replacement Pr | 54,570.04 |
| 14919 | HYPACK, A DIVISION OF PUREHM U | SCADA VIPER SOFTWARE | 600.00 |
| 9710 | INDUSTRIAL CHEMICALS CORP | Hydrochloric Acid SWTP | 158.50 |
| 9710 | INDUSTRIAL CHEMICALS CORP | Hydrochloric Acid NWTP | 278.50 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 326.66 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 84.33 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 256.59 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 28.56 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 168.07 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 47.34 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 75.76 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 101.27 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 86.73 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 173.12 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 79.75 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 47.32 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 61.34 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 15.40 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 41.28 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 14.50 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 317.86 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 10.20 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 15.94 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 44.00 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 130.08 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 181.11 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 191.56 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 116.57 |
| 2615 | INGRAM LIBRARY SERVICES INC | ADULT BOOKS AND MEDIA | 38.11 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 30.77 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 10.19 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 70.88 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 94.26 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 22.00 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 121.99 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 174.36 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 121.98 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 21.85 |
| 2615 | INGRAM LIBRARY SERVICES INC | TEEN BOOKS AND MEDIA | 15.40 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 262.01 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 202.74 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 62.10 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 41.38 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 8.14 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 92.37 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 282.79 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 111.83 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 40.58 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 14.71 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 38.13 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 378.30 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 205.68 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 162.67 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 252.60 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 211.57 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 179.62 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 522.13 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 10.78 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 19.23 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 158.63 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 36.26 |
| 2615 | INGRAM LIBRARY SERVICES INC | CHILDRENS BOOKS AND MEDIA | 48.85 |
| 11267 | INSIDE OUT HEALTH AND FITNESS | CONTRACTOR FEES 10027-1 | 624.00 |
| 13280 | INSIGHT PUBLIC SECTOR INC | Erwin & Visio Licensing | 346.16 |
| 13280 | INSIGHT PUBLIC SECTOR INC | Erwin & Visio Licensing | 2,731.79 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 14719 | INTECONNECT INC | SERVER RELOCATION | 475.00 |
| 13999 | INTEGRAL STEPS | CONTRACTOR FEES | 164.50 |
| 10772 | INTEGRATED SAFETY SERVICES LLC | ALARM SERVICE CS | 210.00 |
| 13687 | IRRIGATION TECHNOLOGIES INC | LAMINATED IRRIGATION BOOK | 368.81 |
| 13817 | ISRAEL ALVARADO | DJ Services Nite @ the Re | 300.00 |
| 13817 | ISRAEL ALVARADO | DJ Services Nite @ the Re | 300.00 |
| 13817 | ISRAEL ALVARADO | DJ Services Nite @ the Re | 300.00 |
| 14239 | JC GOLF ACCESSORIES | 2020 Resale Merchandise | 659.76 |
| 13836 | JO MATTOON ASSOCIATES | COACHING PROCESS | 1,875.00 |
| 13836 | JO MATTOON ASSOCIATES | COACHING PROCESS | 2,000.00 |
| 11289 | JVA INC | Fluoride Equipment Design | 3,976.00 |
| 11289 | JVA INC | WWTP Process Feasibility | 5,404.02 |
| 2360 | KELLY PC | FEB 20 LEGAL SERVICES | 22,060.10 |
| 2815 | KENZ & LESLIE DISTRIBUTING CO | VEHICLE FLUIDS | 427.65 |
| 8002 | KINSCO LLC | Uniform Training Pants | 1,394.69 |
| 8002 | KINSCO LLC | EQUIPMENT RETURNED MCINTO | -204.99 |
| 2855 | KOIS BROTHERS EQUIP CO INC | RELAY ASSEMBLY UNIT 3216 | 667.85 |
| 14426 | LEXIPOL LLC | POLICY MANUAL UPDATE SUBS | 11,118.00 |
| 13692 | LIGHTNING MOBILE SERVICES LLC | SWEEP PARKING GARAGE | 320.00 |
| 3070 | LL JOHNSON DISTRIBUTING CO | FAIRWAY HOSES | 1,331.02 |
| 13382 | LODESTONE DESIGN GROUP | Heritage Park Restroom Re | 3,000.00 |
| 13356 | LOHMILLER AND COMPANY | HVAC BLOWER ASSEMBLY RSC | 463.93 |
| 3100 | LOUISVILLE CHAMBER OF COMMERCE | 2020 BRAD GRANT | 5,000.00 |
| 3100 | LOUISVILLE CHAMBER OF COMMERCE | 2020 PARADE OF LIGHTS | 2,000.00 |
| 5432 | LOUISVILLE FIRE PROTECTION DIS | FEB 20 FIRE DISTRICT FEES | 11,055.00 |
| 14731 | MARY MULCAHEY | BLOOMIN SENIOR SUPPLIES | 211.27 |
| 14071 | MARY RITTER | CONTRACTOR FEES 13904-2 | 705.60 |
| 14071 | MARY RITTER | CONTRACTOR FEES 13905-2 | 245.70 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 6939 | MCCANDLESS TRUCK CENTER LLC | DOOR HANDLE UNIT 3208 | 200.81 |
| 6939 | MCCANDLESS TRUCK CENTER LLC | EXHAUST PIPE CLAMP UNIT 3 | 89.20 |
| 12161 | MINDSHARE HDV LLC | CYPHER DMV CONNECTIVITY S | 6,300.00 |
| 14918 | MIZUNO USA LLC | 2020 Resale Merchandise | 879.21 |
| 14918 | MIZUNO USA LLC | 2020 Resale Merchandise | 742.13 |
| 14918 | MIZUNO USA LLC | 2020 Resale Merchandise | 909.87 |
| 14918 | MIZUNO USA LLC | 2020 Resale Merchandise | 1,038.00 |
| 8016 | NATIONAL RESEARCH CENTER INC | 2020 Louisville Community | 15,700.00 |
| 13597 | NORTH LINE GIS LLC | GIS Consulting Services | 5,260.00 |
| 6427 | NORTHERN COLO WATER CONSERVANC | NCWCD 2019 CARRYOVER WATE | 19,223.10 |
| 14673 | NORTHWEST ROOFING | Police & Court Roof Repla | 95,720.90 |
| 14648 | OCCUPATIONAL HEALTH CENTERS OF | DOT RECERT & INJURY CARE | 96.50 |
| 14648 | OCCUPATIONAL HEALTH CENTERS OF | PHYSICAL | 152.00 |
| 11342 | OJ WATSON COMPANY INC | PARTS UNIT 3204 | 457.32 |
| 11342 | OJ WATSON COMPANY INC | PARTS UNIT 3202 | 457.32 |
| 11342 | OJ WATSON COMPANY INC | PARTS UNIT 3208 | 137.29 |
| 11342 | OJ WATSON COMPANY INC | PARTS UNIT 3216 | 33.82 |
| 11342 | OJ WATSON COMPANY INC | PARTS UNIT 3424 | 137.29 |
| 99999 | JOHN OTT | ACTIVITY REFUND | 68.00 |
| 99999 | ALPINE DEMOLITION | BULK WATER METER REFUND | 2,450.00 |
| 99999 | COOPER HEATING & COOLING INC | PERMIT REFUND 863 W CHEST | 203.70 |
| 99999 | GREEN ENERGY ELECTRIC | PERMIT REFUND 544 GRANT A | 637.63 |
| 99999 | THE GAS CONNECTION | MECHANICAL/PLUMBING LICEN | 100.00 |
| 99999 | SUNRUN | PERMIT REFUND 425 ORCHARD | 250.00 |
| 99999 | BOBBO'S SWEET SHOP LLC | UTILITY BILL REFUND 2017, | 795.01 |
| 99999 | ROCKY MOUNTAIN MUSIC REPAIR LL | 2020 LICENSE REFUND | 25.00 |
| 99999 | ENLIGHTENED BEE LLC | SALES TAX REFUND 6/30/19 | 15.00 |
| 99999 | LORMAN EDUCATION SYSTEMS | 2018 SALES TAX OVERPAYMEN | 6.00 |
| 99999 | MARGARET SULLIVAN | ART CENTER RENTAL REFUND | 110.00 |
| 13986 | OPEN MEDIA FOUNDATION | MAR 20 WEB STREAM SERVICE | 500.00 |
| 14381 | PALEOWEST ARCHAEOLOGY | HISTORIC BUILDING SURVEY | 4,058.33 |
| 14728 | PORTER LEE CORPORATION | BEAST SOFTWARE SUPPORT | 1,175.00 |
| 14728 | PORTER LEE CORPORATION | BEAST BARCODE LABELS | 597.45 |
| 9105 | POSTMASTER | POSTAGE RSC SUMMER CATALO | 1,476.81 |
| 14394 | PROS PLUS LLC | YOUTH BASKETBALL REFEREE | 986.00 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 13095 | PSYCHOLOGICAL DIMENSIONS PC | PRE-EMPLOYMENT PSYCH | 225.00 |
| 13893 | REBECCA TSUI | CONTRACTOR FEES TAI CHI | 1,015.00 |
| 6500 | RECORDED BOOKS LLC | PROCESSING MATERIALS | 445.70 |
| 14844 | REPUBLIC SERVICES INC #535 | FEB 20 RESIDENTIAL TRASH | 116,677.64 |
| 14844 | REPUBLIC SERVICES INC #535 | FEB 20 CITY TRASH SERVICE | 3,873.38 |
| 14459 | SAUNDERS CONSTRUCTION LLC | 2019 Rec Center Construct | 22,490.73 |
| 14859 | SHI INTERNATIONAL CORP | COURT RMS LAPTOP MEMORY | 129.00 |
| 14859 | SHI INTERNATIONAL CORP | COURT RMS LAPTOP WARRANTY | 214.36 |
| 14207 | SMALL AXE TREE CARE | TREE PRUNING | 2,340.00 |
| 14612 | SOME LIKE IT GREEN | MAR 20 PLANT SERVICE | 80.00 |
| 13673 | STERLING TALENT SOLUTIONS | BACKGROUND CHECKS | 463.60 |
| 7619 | TED D MILLER & ASSOCIATES INC | DIOXIDE TEST REAGENTS WTP | 203.72 |
| 7917 | THE AQUEOUS SOLUTION INC | CHEMICAL CHECK EQUIPMENT | 68.64 |
| 1047 | THE DAVEY TREE EXPERT COMPANY | TREE PRUNING | 1,960.00 |
| 14663 | THE JUMP ROPE GROUP LLC | CONTRACTOR FEES JUMP ROPE | 600.60 |
| 14353 | TRANSPARENT INFORMATION SERVIC | BACKGROUND CHECKS | 281.55 |
| 14065 | TYLER TECHNOLOGIES INC | Executime Implementation | 640.00 |
| 14065 | TYLER TECHNOLOGIES INC | Executime Electronic Time | 2,981.00 |
| 14065 | TYLER TECHNOLOGIES INC | Courts RMS | 1,000.00 |
| 14065 | TYLER TECHNOLOGIES INC | Courts RMS | 3,000.00 |
| 14065 | TYLER TECHNOLOGIES INC | Tyler Utility Billing Ana | 4,990.37 |
| 4765 | UNCC | FEB 20 LOCATES #48760 | 560.24 |
| 13851 | VELOCITY PLANT SERVICES LLC | BOOSTER PUMP INSTALLATION | 959.65 |
| 13891 | VERIS ENVIRONMENTAL LLC | Biosolids Hauling | 1,370.93 |
| 13891 | VERIS ENVIRONMENTAL LLC | Biosolids Hauling | 1,445.81 |
| 4900 | VRANESH AND RAISCH LLP | JAN 20 WINDY GAP LEGAL SE | 1,246.38 |
| 14373 | WEIFIELD GROUP CONTRACTING INC | MIOX POWER SUPPLY REPAIR | 289.00 |
| 14373 | WEIFIELD GROUP CONTRACTING INC | SWITCH GEAR REPAIR | 456.66 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES LIB | 195.68 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES CMO | 212.93 |

CASH ACCOUNT: 001000 101001 WARRANT: 031720 03/17/2020

| VENDOR | VENDOR NAME | PURPOSE | AMOUNT |
|---|---|---|---|
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL & BREAK ROOM S | 298.51 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES LIB | 107.25 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES LIB | 48.98 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES PC | 297.92 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES CH | 38.57 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES CH | 379.55 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES NWTP | 164.64 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLIES RSC | 1,313.94 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | JANITORIAL SUPPLY CREDIT | -599.62 |
| 9511 | WESTERN PAPER DISTRIBUTORS INC | KITCHEN ROLL TOWELS GCM | 25.89 |
| 10884 | WORD OF MOUTH CATERING INC | SR MEAL PROGRAM 2/24-3/6/ | 2,764.00 |
| 13790 | ZAYO GROUP LLC | MAR 20 INTERNET SERVICE | 783.00 |

255 INVOICES WARRANT TOTAL 965,824.88

**CITY OF LOUISVILLE**
**PURCHASE CARD SUMMARY**
**STATEMENT PERIOD 01/22/20- 02/20/20**

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| 6286 DOMINOS PIZZA | 303-449-7101 | PEGGY JONES | REC CENTER | 01/24/2020 | 3.99 |
| ABO S PIZZA LOUISVIL | LOUISVILLE | CALVIN MCCARTY | OPERATIONS | 02/10/2020 | 13.99 |
| ACTION RESEARCH | 7607224001 | KATIE BAUM | CITY MANAGER | 02/10/2020 | 645.00 |
| ADM/SHOP DENVER MUSEUM | DENVER | KATIE TOFTE | REC CENTER | 01/31/2020 | 229.00 |
| AHEC PARKING SERVICES | DENVER | DAVID D HAYES | POLICE | 01/29/2020 | 5.25 |
| ALFA LAVAL | 8042363115 | MARC DENNY | WASTEWATER | 02/11/2020 | 277.49 |
| ALLDATA CORP #8601 | ELK GROVE | MASON THOMPSON | OPERATIONS | 02/02/2020 | 125.00 |
| AMAZON.COM AMZN.COM/BI | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/05/2020 | -.02 |
| AMAZON.COM*143CQ09L3 A | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/05/2020 | 34.97 |
| AMAZON.COM*465HB61D3 A | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/13/2020 | 57.24 |
| AMAZON.COM*8V3C66SZ3 A | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/04/2020 | 11.98 |
| AMAZON.COM*C92D21043 A | AMZN.COM/BILL | DAVID DEAN | GOLF COURSE | 02/18/2020 | 11.75 |
| AMAZON.COM*OB9AV2I43 A | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/19/2020 | 37.54 |
| AMAZON.COM*OL7E73X83 A | AMZN.COM/BILL | DAVID DEAN | GOLF COURSE | 02/13/2020 | 25.26 |
| AMAZON.COM*VL8AE1IO3 A | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/06/2020 | 13.98 |
| AMAZON.COM*VV5I13ZP3 A | AMZN.COM/BILL | JUSTIN ELKINS | WASTEWATER | 02/17/2020 | 164.01 |
| AMAZON.COM*W30CW2GW3 A | AMZN.COM/BILL | JULIE SEYDEL | REC CENTER | 02/16/2020 | 15.24 |
| AMERICAN PLANNING A | 3124319100 | LISA RITCHIE | PLANNING | 02/13/2020 | 490.00 |
| AMERICAN RED CROSS | 800-733-2767 | MARC DENNY | WASTEWATER | 01/22/2020 | 35.00 |
| AMERICAN RED CROSS | 800-733-2767 | DEANNA WEBSTER | REC CENTER | 01/22/2020 | 120.00 |
| AMZN MKTP US AMZN.COM/ | AMZN.COM/BILL | LINDSEY WITTY | REC CENTER | 02/17/2020 | -27.99 |
| AMZN MKTP US AMZN.COM/ | AMZN.COM/BILL | DIANE M KREAGER | FINANCE | 01/24/2020 | -1,230.92 |
| AMZN MKTP US AMZN.COM/ | AMZN.COM/BILL | DIANE M KREAGER | FINANCE | 01/24/2020 | -2,461.84 |
| AMZN MKTP US*374BF5KP3 | AMZN.COM/BILL | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/28/2020 | 112.78 |
| AMZN MKTP US*3Y87X47N3 | AMZN.COM/BILL | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/28/2020 | 13.98 |
| AMZN MKTP US*A68CZ8H23 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/19/2020 | 10.99 |
| AMZN MKTP US*E300F2063 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/19/2020 | 12.49 |
| AMZN MKTP US*G09D49SI3 | AMZN.COM/BILL | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/29/2020 | 498.49 |
| AMZN MKTP US*OF7NQ4Y63 | AMZN.COM/BILL | LINDSEY WITTY | REC CENTER | 02/05/2020 | 248.59 |
| AMZN MKTP US | AMZN.COM/BILL | MIKE KARBGINSKY | FACILITIES | 01/27/2020 | -35.66 |
| AMZN MKTP US*0C7Q64JO3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/07/2020 | 35.37 |
| AMZN MKTP US*0V47Q6YY3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/10/2020 | 26.59 |
| AMZN MKTP US*0W72L5A13 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/30/2020 | 90.00 |
| AMZN MKTP US*0Z8728HT3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/10/2020 | 53.93 |
| AMZN MKTP US*1X7YD41A3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/05/2020 | 17.99 |
| AMZN MKTP US*203H05OE3 | AMZN.COM/BILL | BRIAN GARDUNO | OPERATIONS | 02/12/2020 | 67.08 |
| AMZN MKTP US*2D9ID7UK3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/05/2020 | 525.26 |
| AMZN MKTP US*3C4ZV38S3 | AMZN.COM/BILL | AMANDA PERERA | REC CENTER | 01/27/2020 | 10.99 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| AMZN MKTP US*3X5DO36Y3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/26/2020 | 111.30 |
| AMZN MKTP US*411E34UX3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/19/2020 | 43.49 |
| AMZN MKTP US*583F46GP3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/13/2020 | 40.46 |
| AMZN MKTP US*601LK6H43 | AMZN.COM/BILL | KATIE MEYER | REC CENTER | 02/19/2020 | 165.83 |
| AMZN MKTP US*605RR28J3 | AMZN.COM/BILL | JEN KENNEY | POLICE | 02/06/2020 | 44.95 |
| AMZN MKTP US*6480C4CK3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/29/2020 | 53.90 |
| AMZN MKTP US*6964I3XY3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/10/2020 | 69.85 |
| AMZN MKTP US*6S5QT95Q3 | AMZN.COM/BILL | KERRY HOLLE | PUBLIC WORKS | 02/16/2020 | 49.36 |
| AMZN MKTP US*7W8CY4413 | AMZN.COM/BILL | AMANDA PERERA | REC CENTER | 01/22/2020 | 79.98 |
| AMZN MKTP US*8G97A3NA3 | AMZN.COM/BILL | DAVID DEAN | GOLF COURSE | 01/23/2020 | 67.98 |
| AMZN MKTP US*8N1CT6OG3 | AMZN.COM/BILL | KATIE TOFTE | REC CENTER | 02/08/2020 | 38.00 |
| AMZN MKTP US*969TZ7W13 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/06/2020 | 9.99 |
| AMZN MKTP US*9L3XH8HW3 | AMZN.COM/BILL | JUSTIN ELKINS | WASTEWATER | 01/29/2020 | 124.97 |
| AMZN MKTP US*9O4PM8MB3 | AMZN.COM/BILL | JUSTIN ELKINS | WASTEWATER | 01/24/2020 | 99.85 |
| AMZN MKTP US*9R7Q86TW3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/01/2020 | 11.92 |
| AMZN MKTP US*9V0A66HU3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/08/2020 | 22.17 |
| AMZN MKTP US*AG8ID9BO3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 01/21/2020 | 90.11 |
| AMZN MKTP US*AK6XJ0X83 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/10/2020 | 26.49 |
| AMZN MKTP US*B92GB3QK3 | AMZN.COM/BILL | AMANDA PERERA | REC CENTER | 02/04/2020 | 36.99 |
| AMZN MKTP US*BY4SW6DD3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/12/2020 | 67.48 |
| AMZN MKTP US*C883Y2TV3 | AMZN.COM/BILL | JULIE SEYDEL | REC CENTER | 01/28/2020 | 349.99 |
| AMZN MKTP US*CE89I4N93 | AMZN.COM/BILL | KERRY HOLLE | PUBLIC WORKS | 01/30/2020 | 159.50 |
| AMZN MKTP US*DU9P73C23 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/07/2020 | 63.96 |
| AMZN MKTP US*DZ4Y13RG3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/12/2020 | 76.06 |
| AMZN MKTP US*EG8TB7663 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/26/2020 | 133.65 |
| AMZN MKTP US*EI3IB4B93 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 01/23/2020 | 15.75 |
| AMZN MKTP US*ER6DT6943 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/28/2020 | 91.60 |
| AMZN MKTP US*F34LP5NV3 | AMZN.COM/BILL | JUSTIN ELKINS | WASTEWATER | 02/14/2020 | 96.93 |
| AMZN MKTP US*F94EP78T3 | AMZN.COM/BILL | DAVID DEAN | GOLF COURSE | 02/18/2020 | 49.95 |
| AMZN MKTP US*FG5780GH3 | AMZN.COM/BILL | LINDSEY WITTY | REC CENTER | 02/11/2020 | 57.98 |
| AMZN MKTP US*G83SZ4E63 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/24/2020 | 39.90 |
| AMZN MKTP US*GJ75012B3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/30/2020 | 9.97 |
| AMZN MKTP US*GO0HS3PY3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/17/2020 | 19.98 |
| AMZN MKTP US*I69790WD3 | AMZN.COM/BILL | JESSE DEGRAW | REC CENTER | 01/23/2020 | 62.96 |
| AMZN MKTP US*IJ1BG8QE3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/05/2020 | 8.59 |
| AMZN MKTP US*KA87821Z3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/30/2020 | 102.88 |
| AMZN MKTP US*KF7A59KP3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/26/2020 | 49.98 |
| AMZN MKTP US*M98XY1WV0 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/04/2020 | 41.94 |
| AMZN MKTP US*ME5YN5K93 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/17/2020 | 20.95 |
| AMZN MKTP US*NK68T7R43 | AMZN.COM/BILL | AMANDA PERERA | REC CENTER | 02/17/2020 | 13.49 |
| AMZN MKTP US*OP8EF7313 | AMZN.COM/BILL | KATIE MEYER | REC CENTER | 02/18/2020 | 11.95 |
| AMZN MKTP US*QL9AO99C3 | AMZN.COM/BILL | MEAGAN BROWN | HUMAN RESOURCES | 02/01/2020 | 199.98 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| AMZN MKTP US*RZ75O6ZG3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/12/2020 | 11.98 |
| AMZN MKTP US*S68GD7X23 | AMZN.COM/BILL | BRIDGET BACON | LIBRARY | 02/11/2020 | 49.52 |
| AMZN MKTP US*U16ST9VY3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/29/2020 | 167.96 |
| AMZN MKTP US*UJ6HW0383 | AMZN.COM/BILL | JAMES VAUGHAN | REC CENTER | 02/01/2020 | 79.00 |
| AMZN MKTP US*UW5J28F43 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/30/2020 | 41.99 |
| AMZN MKTP US*VL1093N03 | AMZN.COM/BILL | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/29/2020 | 33.96 |
| AMZN MKTP US*W496N8YO3 | AMZN.COM/BILL | JULIE SEYDEL | REC CENTER | 01/28/2020 | 199.99 |
| AMZN MKTP US*WH7BS0VG3 | AMZN.COM/BILL | KATHERINE ZOSS | CITY MANAGER | 02/09/2020 | 21.49 |
| AMZN MKTP US*X50WG6Z93 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/29/2020 | 95.10 |
| AMZN MKTP US*X89LK5GR3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/23/2020 | 35.92 |
| AMZN MKTP US*XQ2J48R53 | AMZN.COM/BILL | DAVID DEAN | GOLF COURSE | 02/07/2020 | 144.98 |
| AMZN MKTP US*XZ86S5CG3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/09/2020 | 79.24 |
| AMZN MKTP US*YC7DY1BJ3 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/05/2020 | 79.04 |
| AMZN MKTP US*Z57SB5K63 | AMZN.COM/BILL | KATHERINE ZOSS | CITY MANAGER | 02/19/2020 | 52.61 |
| AMZN MKTP US*Z59GR8WU3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/28/2020 | 251.46 |
| AMZN MKTP US*ZG7NR11A3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/20/2020 | 210.15 |
| AMZN MKTP US*ZS2UE8BZ3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/19/2020 | 220.09 |
| AN CHEVROLET NORTH | 303-428-5656 | CALVIN MCCARTY | OPERATIONS | 02/20/2020 | 50.58 |
| ARAMARK UNIFORM | 800-504-0328 | JULIE SEYDEL | REC CENTER | 02/12/2020 | 804.10 |
| AROYAN | 781-331-1332 | MIKE KARBGINSKY | FACILITIES | 01/28/2020 | 174.06 |
| ARROW STAGE LINES QPS | 402-7311900 | KATIE TOFTE | REC CENTER | 02/11/2020 | 739.00 |
| ARROW STAGE LINES QPS | 402-7311900 | KATIE TOFTE | REC CENTER | 02/11/2020 | 643.00 |
| ARROW STAGE LINES QPS | 402-7311900 | KATIE TOFTE | REC CENTER | 01/30/2020 | 689.00 |
| ARROW STAGE LINES QPS | 402-7311900 | KATIE TOFTE | REC CENTER | 01/30/2020 | 643.00 |
| ARROW STAGE LINES QPS | 402-7311900 | KATIE TOFTE | REC CENTER | 01/30/2020 | 643.00 |
| ARROWHEAD AWARDS | BOULDER | DEAN JOHNSON | PARKS | 01/28/2020 | 45.00 |
| ATD | 7036838100 | DIANE M KREAGER | FINANCE | 01/29/2020 | 1,495.00 |
| ATT*TECH SUPPORT 360 | 877-88TS360 | DANIEL WOOLDRIDGE | IT | 02/11/2020 | 10.00 |
| AV NOW | 8314252500 | LINDSEY WITTY | REC CENTER | 02/11/2020 | 517.97 |
| AWWA.ORG | 303-347-6197 | GREG VENETTE | WATER | 01/31/2020 | 79.00 |
| AMAZON PRIME*4B1WR4JM3 | AMZN.COM/BILL | JIM GILBERT | PARKS | 01/22/2020 | 12.99 |
| AMAZON.COM | AMZN.COM/BILL | MIKE KARBGINSKY | FACILITIES | 01/27/2020 | -1.70 |
| AMAZON.COM*1791544O3 | AMZN.COM/BILL | DRUSILLA TIEBEN | PARKS | 02/08/2020 | 7.86 |
| AMAZON.COM*249763YX3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 02/19/2020 | 529.95 |
| AMAZON.COM*2K2BS4C13 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/19/2020 | 35.92 |
| AMAZON.COM*5K1FZ0EA3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/27/2020 | 31.38 |
| AMAZON.COM*664AR9MU3 | AMZN.COM/BILL | JULIE SEYDEL | REC CENTER | 02/12/2020 | 41.28 |
| AMAZON.COM*6K2RX8723 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/29/2020 | 17.10 |
| AMAZON.COM*BW0KR55G3 | AMZN.COM/BILL | JEN KENNEY | POLICE | 01/26/2020 | 75.56 |
| AMAZON.COM*DQ8SQ6GN3 | AMZN.COM/BILL | MIKE KARBGINSKY | FACILITIES | 01/26/2020 | 21.35 |
| AMAZON.COM*FR9JF7J33 | AMZN.COM/BILL | KERRY HOLLE | PUBLIC WORKS | 02/20/2020 | 109.69 |
| AMAZON.COM*GQ4XJ0DJ3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/18/2020 | 205.92 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| AMAZON.COM*IQ2KS9DK3 | AMZN.COM/BILL | BRIAN GARDUNO | OPERATIONS | 01/30/2020 | 28.62 |
| AMAZON.COM*JV8BP4PS3 | AMZN.COM/BILL | BRIDGET BACON | LIBRARY | 01/24/2020 | 373.97 |
| AMAZON.COM*LB7ME2XY3 | AMZN.COM/BILL | JAMES VAUGHAN | REC CENTER | 02/03/2020 | 14.99 |
| AMAZON.COM*MI7RD5TG3 | AMZN.COM/BILL | MEREDYTH MUTH | CITY MANAGER | 02/06/2020 | 17.84 |
| AMAZON.COM*MN0ID4443 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/27/2020 | 22.99 |
| AMAZON.COM*PJ76U0M23 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/29/2020 | 35.92 |
| AMAZON.COM*RZ6E72V13 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 01/31/2020 | 44.81 |
| AMAZON.COM*S30MY2N93 | AMZN.COM/BILL | KATHERINE ZOSS | CITY MANAGER | 01/22/2020 | 36.29 |
| AMAZON.COM*U21D38IP3 | AMZN.COM/BILL | JILL SIEWERT | LIBRARY | 02/10/2020 | 66.93 |
| AMAZON.COM*VO3SP4S33 | AMZN.COM/BILL | PAMELA LEMON | REC CENTER | 02/13/2020 | 35.44 |
| AMAZON.COM*YI1JN9FD3 | AMZN.COM/BILL | PATRICIA MORGAN | REC CENTER | 01/29/2020 | 360.96 |
| B2B PRIME*7C3P50G93 | AMZN.COM/BILL | MIKE KARBGINSKY | FACILITIES | 02/05/2020 | 179.00 |
| BESTBUYCOM805687751186 | 888-BESTBUY | JILL SIEWERT | LIBRARY | 02/13/2020 | 19.99 |
| BESTBUYCOM805687751186 | 888-BESTBUY | JILL SIEWERT | LIBRARY | 02/07/2020 | 19.99 |
| BESTBUYCOM805687754585 | 888-BESTBUY | JILL SIEWERT | LIBRARY | 02/13/2020 | 59.97 |
| BESTBUYCOM805687754585 | 888-BESTBUY | JILL SIEWERT | LIBRARY | 02/07/2020 | 59.97 |
| BIZWEST MEDIA | 303-4404950 | KATIE BAUM | CITY MANAGER | 02/10/2020 | 69.49 |
| BIZWEST-DIGITAL | FORT COLLINS | ROBERT ZUCCARO | PLANNING | 02/12/2020 | 7.00 |
| BK TIRE | FREDERICK | MASON THOMPSON | OPERATIONS | 02/07/2020 | 80.00 |
| BK TIRE | FREDERICK | MASON THOMPSON | OPERATIONS | 01/29/2020 | 299.32 |
| BK TIRE | FREDERICK | MASON THOMPSON | OPERATIONS | 01/22/2020 | 149.66 |
| BOOT BARN # 310 | NORTHGLENN | ROSS DAVIS | OPERATIONS | 02/17/2020 | 144.99 |
| BUGSANDBEYOND.NET | 3037461129 | SAM WHITE | GOLF COURSE | 02/10/2020 | 50.00 |
| CANTNBREAKTIME79052171 | DENVER | JULIE SEYDEL | REC CENTER | 01/23/2020 | 181.45 |
| CANVA* 02591-19649033 | 8778877815 | GLORIA HANDYSIDE | CITY MANAGER | 02/05/2020 | 12.95 |
| CANVA* 02601-0758630 | 8778877815 | ERIN OWEN | LIBRARY | 02/14/2020 | 119.40 |
| CAPA | CENTENNIAL | KERRY HOLLE | PUBLIC WORKS | 01/23/2020 | 250.00 |
| CATALYSTS DISC EXPERTS | 3166341944 | DIANE M KREAGER | FINANCE | 01/29/2020 | 1,995.00 |
| CENTENNIAL PRINTING CO | 303-6650388 | THOMAS CZAJKA | OPERATIONS | 02/12/2020 | 50.00 |
| CENTENNIAL PRINTING CO | 303-6650388 | DIANE M KREAGER | FINANCE | 02/04/2020 | 2,350.00 |
| CENTENNIAL PRINTING CO | 303-6650388 | THOMAS CZAJKA | OPERATIONS | 01/30/2020 | 10.00 |
| CENTENNIAL PRINTING CO | 303-6650388 | DIANE EVANS | REC CENTER | 01/29/2020 | 145.00 |
| CENTENNIAL PRINTING CO | 303-6650388 | JIM GILBERT | PARKS | 01/28/2020 | 195.00 |
| CENTENNIAL PRINTING CO | 303-6650388 | KATIE MEYER | REC CENTER | 01/28/2020 | 12.50 |
| CENTENNIAL PRINTING CO | 303-6650388 | JACK MANIAN | OPERATIONS | 01/23/2020 | 10.00 |
| CENTER COPY PRINTING | 303-4406000 | CHERYL KELLER | POLICE | 02/12/2020 | 257.30 |
| CENTER COPY PRINTING | 303-4406000 | CHERYL KELLER | POLICE | 01/30/2020 | 103.40 |
| CENTURYLINK/SPEEDPAY | 800-244-1111 | DIANE M KREAGER | FINANCE | 01/29/2020 | 2,111.22 |
| CO DEPT OF AGRICULTURE | 3035343468 | AARON GRANT | PARKS | 02/11/2020 | 103.02 |
| CO MOTOR VEH SERV EMV | DENVER | MASON THOMPSON | OPERATIONS | 02/14/2020 | 11.99 |
| CO MOTOR VEH SERV EMV | DENVER | MASON THOMPSON | OPERATIONS | 02/06/2020 | 8.20 |
| CO MOTOR VEH SERV EMV | DENVER | MASON THOMPSON | OPERATIONS | 01/28/2020 | 11.99 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| COAL CREEK COLLISION | LOUISVILLE | MASON THOMPSON | OPERATIONS | 02/14/2020 | 1,000.00 |
| COAL CREEK COLLISION | LOUISVILLE | MASON THOMPSON | OPERATIONS | 02/12/2020 | 1,000.00 |
| COAL CREEK COLLISION | LOUISVILLE | MASON THOMPSON | OPERATIONS | 01/23/2020 | 1,000.00 |
| COLORADO ASSOCIATION O | 303-4636400 | KRISTEN BODINE | LIBRARY | 02/07/2020 | 55.00 |
| COLORADO CHAPTER OF TH | 303-9013823 | CHAD ROOT | BUILDING SAFETY | 02/12/2020 | 30.90 |
| COLORADO CHAPTER OF TH | 303-9013823 | CHAD ROOT | BUILDING SAFETY | 02/05/2020 | 412.00 |
| COLORADO CHAPTER OF TH | 303-9013823 | ELIZABETH SCHETTLER | PLANNING | 02/05/2020 | -370.80 |
| COLORADO CONVENTION | DENVER | BRADLEY AUSTIN | PARKS | 02/06/2020 | 12.00 |
| COLORADO CONVENTION | DENVER | ERIK SWIATEK | PARKS | 02/05/2020 | 12.00 |
| COLORADO CWP | 719-545-6748 | GREG VENETTE | WATER | 02/18/2020 | 50.00 |
| COLORADO CWP | 719-545-6748 | VICKIE ILKO | OPERATIONS | 02/13/2020 | 50.00 |
| COLORADO CWP | 719-545-6748 | JACK MANIAN | OPERATIONS | 02/03/2020 | 50.00 |
| COLORADO CWP | 719-545-6748 | THOMAS CZAJKA | OPERATIONS | 01/29/2020 | 50.00 |
| COLORADO CWP | 719-545-6748 | VICKIE ILKO | OPERATIONS | 01/27/2020 | 135.00 |
| COLORADO DOORWAYS INC | DENVER | BRIAN GARDUNO | OPERATIONS | 01/27/2020 | 897.00 |
| COLORADO GOLF ASSN | 303-3664653 | SAM WHITE | GOLF COURSE | 02/11/2020 | 200.00 |
| COLORADO MUNICIPAL LEA | 303-8316411 | EMILY HOGAN | CITY MANAGER | 02/17/2020 | 15.00 |
| COLORADO MUNICIPAL LEA | 303-8316411 | DAWN BURGESS | CITY MANAGER | 02/14/2020 | 393.00 |
| COLORADO MUNICIPAL LEA | 303-8316411 | EMILY HOGAN | CITY MANAGER | 02/06/2020 | 15.00 |
| COLORADO MUNICIPAL LEA | 303-8316411 | DAWN BURGESS | CITY MANAGER | 01/31/2020 | 110.00 |
| COLORADO PARKS AND REC | DENVER | AMANDA PERERA | REC CENTER | 01/30/2020 | 10.00 |
| COMCAST CABLE COMM | 800-COMCAST | KATHERINE ZOSS | CITY MANAGER | 02/13/2020 | 109.95 |
| COMCAST CABLE COMM | 800-COMCAST | JIM GILBERT | PARKS | 01/28/2020 | 503.48 |
| COMCAST DENVER CS 1X | 800-266-2278 | JILL SIEWERT | LIBRARY | 02/07/2020 | 298.13 |
| COMCAST DENVER CS 1X | 800-266-2278 | DIANE M KREAGER | FINANCE | 02/05/2020 | 33.93 |
| COMCAST DENVER CS 1X | 800-266-2278 | JILL SIEWERT | LIBRARY | 01/28/2020 | 298.13 |
| COMPLETE MAILING SOLUT | ENGLEWOOD | DIANE M KREAGER | FINANCE | 02/04/2020 | 175.92 |
| CONTAINERSTOREFLATIRON | BROOMFIELD | LANA FAUVER | REC CENTER | 01/30/2020 | 24.09 |
| CORNWELL TOOLS | DACONO | ROSS DAVIS | OPERATIONS | 02/12/2020 | 33.58 |
| CORNWELL TOOLS | DACONO | ROSS DAVIS | OPERATIONS | 02/12/2020 | 110.71 |
| CPI*COLEPARMERINSTRUMT | 800-323-4340 | MARC DENNY | WASTEWATER | 02/20/2020 | 44.73 |
| CROMWELL FRONT DESK | LAS VEGAS | MIKE MILLER | POLICE | 01/25/2020 | 461.23 |
| CROMWELL FRONT DESK | LAS VEGAS | MATTHEW E TRUJILLO | POLICE | 01/25/2020 | 461.23 |
| CTAC 1ST QUARTER WORKS | 5712268300 | PENNEY BOLTE | SALES TAX | 01/21/2020 | 30.00 |
| CU BLDR PKNG SVCS MTR | BOULDER | DAVID D HAYES | POLICE | 01/28/2020 | 5.00 |
| CV LINENS | 512-821-1178 | PATRICIA MORGAN | REC CENTER | 01/28/2020 | 395.52 |
| DAILY CAMERA | 3034443444 | CHERYL KELLER | POLICE | 01/21/2020 | 13.89 |
| DAYS INN ORLANDO CC | 4075798018 | NORMAN MERLO | GOLF COURSE | 02/01/2020 | 579.40 |
| DBC IRRIGATION SUPPLY | BROOMFIELD | DANIEL PEER | PARKS | 01/22/2020 | 162.77 |
| DENVER BOTANIC GARDENS | 720-8653520 | KATIE TOFTE | REC CENTER | 02/05/2020 | 25.20 |
| DENVER CROWNE PLAZA PA | DENVER | DESHAUN BECERRIL | OPERATIONS | 01/21/2020 | 6.00 |
| DIGICERT INC | 8017019684 | DIANE M KREAGER | FINANCE | 02/11/2020 | 1,305.00 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| DOLLAR TREE | LAFAYETTE | LANA FAUVER | REC CENTER | 02/01/2020 | 23.00 |
| DOMINO'S 6286 | 303-449-7101 | PEGGY JONES | REC CENTER | 01/31/2020 | 72.44 |
| DOMINO'S 6286 | 303-449-7101 | PEGGY JONES | REC CENTER | 01/24/2020 | 77.21 |
| DPAC GARAGE-3036079093 | DENVER | AARON GRANT | PARKS | 02/06/2020 | 10.00 |
| DROPBOX*BBKGJM4ZKW7L | DROPBOX.COM | EMILY HOGAN | CITY MANAGER | 02/18/2020 | 11.99 |
| DTV*DIRECTV SERVICE | 800-347-3288 | SAM WHITE | GOLF COURSE | 02/11/2020 | 186.45 |
| E 470 EXPRESS TOLLS | 303-5373470 | DIANE M KREAGER | FINANCE | 02/04/2020 | 40.45 |
| E-CONOLIGHT | 8882439445 | DAVID SZABADOS | FACILITIES | 02/17/2020 | 127.70 |
| EAS*THE EASTWOOD COMPA | 800-544-5118 | DAVID DEAN | GOLF COURSE | 02/19/2020 | 140.49 |
| EB HEALTHY GRASSLANDS | 8014137200 | STEVE ROELS | PARKS | 02/13/2020 | 60.00 |
| EB HEALTHY GRASSLANDS | 8014137200 | CATHERINE JEPSON | PARKS | 02/12/2020 | 60.00 |
| ECONOMIC DEVELOPERS CO | 7202604478 | MEGAN PIERCE | CITY MANAGER | 02/19/2020 | 250.00 |
| EPACT NETWORK LTD | NORTH VANCOUV | KATHY MARTIN | REC CENTER | 01/21/2020 | 1,525.00 |
| ECO PRODUCTS PBC | 303-449-1876 | KATHERINE ZOSS | CITY MANAGER | 02/13/2020 | 233.34 |
| FACEBK GWK9LNSEN2 | MENLO PARK | GINGER CROSS | GOLF COURSE | 01/31/2020 | 39.86 |
| FASTENAL COMPANY 01COB | 507-453-8920 | ANDY ELLIS | PARKS | 02/19/2020 | 20.54 |
| FASTENAL COMPANY 01COB | LAFAYETTE | CONNOR POWERS | GOLF COURSE | 02/19/2020 | -35.53 |
| FASTENAL COMPANY 01COB | 507-453-8920 | CONNOR POWERS | GOLF COURSE | 02/19/2020 | 35.53 |
| FASTENAL COMPANY 01COB | 507-453-8920 | ROSS DAVIS | OPERATIONS | 02/13/2020 | 17.39 |
| FASTENAL COMPANY 01COB | 507-453-8920 | MASON THOMPSON | OPERATIONS | 02/07/2020 | 10.71 |
| FASTENAL COMPANY 01COB | 507-453-8920 | MASON THOMPSON | OPERATIONS | 01/31/2020 | 13.45 |
| FASTENAL COMPANY 01COB | 507-453-8920 | ROSS DAVIS | OPERATIONS | 01/28/2020 | 91.74 |
| FASTENAL COMPANY 01COB | 507-453-8920 | ROSS DAVIS | OPERATIONS | 01/27/2020 | 469.15 |
| FASTENAL COMPANY 01COB | LAFAYETTE | ROSS DAVIS | OPERATIONS | 01/23/2020 | 36.82 |
| FCC*FRANKLINCVYSEMINAR | 888-740-1776 | DAVID D HAYES | POLICE | 02/12/2020 | 150.00 |
| FEDEX 390338122933 | MEMPHIS | CHERYL KELLER | POLICE | 02/13/2020 | 11.55 |
| FEDEX OFFIC74200007427 | LOUISVILLE | LANA FAUVER | REC CENTER | 02/01/2020 | 9.95 |
| FIRST CHOICE-BOYER S C | 303-9649400 | SAM WHITE | GOLF COURSE | 02/11/2020 | 62.70 |
| FIRST CHOICE-BOYER S C | 303-9649400 | DAWN BURGESS | CITY MANAGER | 01/29/2020 | 86.65 |
| FIRST CHOICE-BOYER S C | 303-9649400 | DAWN BURGESS | CITY MANAGER | 01/29/2020 | 340.28 |
| FIRST CHOICE-BOYER S C | 303-9649400 | SAM WHITE | GOLF COURSE | 01/27/2020 | 69.12 |
| FOCUS PARKING CALIFO | DENVER | MEGAN DAVIS | CITY MANAGER | 01/24/2020 | 30.00 |
| FORMS FULFILLMENT CENT | 914-345-6268 | DIANE M KREAGER | FINANCE | 01/21/2020 | 64.75 |
| FRONTIER | DENVER | DAWN BURGESS | CITY MANAGER | 01/27/2020 | 383.30 |
| FRONTIER | DENVER | MEGAN DAVIS | CITY MANAGER | 01/26/2020 | 141.40 |
| G & G EQUIPMENT | FREDERICK | BRADLEY AUSTIN | PARKS | 02/18/2020 | 353.00 |
| GALCO INDUSTRIAL ELECT | 2485429090 | MIKE KARBGINSKY | FACILITIES | 01/24/2020 | 603.66 |
| GALLS | 8592667227 | MATTHEW E TRUJILLO | POLICE | 01/30/2020 | 28.75 |
| GENERAL AIR SERVICE & | 7203419437 | JUSTIN ELKINS | WASTEWATER | 01/22/2020 | 233.29 |
| GLENS GARAGE | LAKEWOOD | CONNOR POWERS | GOLF COURSE | 02/11/2020 | 320.00 |
| GOVERNMENT FINANCE OFF | CHICAGO | DIANE M KREAGER | FINANCE | 02/04/2020 | 395.00 |
| GRAINGER | 877-2022594 | DAVID DEAN | GOLF COURSE | 02/11/2020 | 45.71 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| GRAINGER | 877-2022594 | DAVID DEAN | GOLF COURSE | 01/31/2020 | 7.10 |
| GRAINGER | 877-2022594 | DAVID DEAN | GOLF COURSE | 01/27/2020 | 84.98 |
| GRAINGER | 877-2022594 | DAVID DEAN | GOLF COURSE | 01/27/2020 | 22.11 |
| GRAINGER | 877-2022594 | DAVID DEAN | GOLF COURSE | 01/27/2020 | 83.40 |
| GRAMMARLY COQSCI7CN | 8883186146 | GINGER CROSS | GOLF COURSE | 01/30/2020 | 139.95 |
| GREEN CO2 SYSTEMS | FORT COLLINS | PAUL BORTH | REC CENTER | 02/12/2020 | 556.36 |
| GREEN CO2 SYSTEMS | FORT COLLINS | PAUL BORTH | REC CENTER | 02/07/2020 | 277.69 |
| GREEN CO2 SYSTEMS | FORT COLLINS | PAUL BORTH | REC CENTER | 02/05/2020 | 640.75 |
| GREEN CO2 SYSTEMS | FORT COLLINS | PAUL BORTH | REC CENTER | 01/20/2020 | 480.26 |
| GRP & ASSOCIATES INC | CLEAR LAKE | DEANNA WEBSTER | REC CENTER | 01/29/2020 | 169.90 |
| GTI GOLF CARS | COMMERCE CITY | DAVID DEAN | GOLF COURSE | 02/18/2020 | 271.48 |
| GTI GOLF CARS | 3032881979 | CONNOR POWERS | GOLF COURSE | 02/13/2020 | 61.10 |
| HACH COMPANY | LOVELAND | MARC DENNY | WASTEWATER | 02/13/2020 | 176.58 |
| HACH COMPANY | LOVELAND | MARC DENNY | WASTEWATER | 01/16/2020 | 56.94 |
| HILLYARD INC DENVER | 3033211227 | SAM WHITE | GOLF COURSE | 02/17/2020 | 155.47 |
| HOBBY-LOBBY #0034 | LONGMONT | LARISSA COX | REC CENTER | 01/30/2020 | 66.80 |
| HOMEDEPOT.COM | 800-430-3376 | JAMES VAUGHAN | REC CENTER | 02/06/2020 | 149.00 |
| HOMEDEPOT.COM | 800-430-3376 | JAMES VAUGHAN | REC CENTER | 02/06/2020 | 8.49 |
| HOO*HOOTSUITE INC | 778-5889767 | GLORIA HANDYSIDE | CITY MANAGER | 02/12/2020 | 228.00 |
| HOTEL COLORADO | GLENWOOD SPRI | MEGAN DAVIS | CITY MANAGER | 02/07/2020 | 250.00 |
| HOTEL COLORADO | GLENWOOD SPRI | HEATHER BALSER | CITY MANAGER | 02/08/2020 | 375.00 |
| ICE CASTLES LLC | 8884074054 | KATIE TOFTE | REC CENTER | 01/30/2020 | 521.69 |
| IN *1-2-1 MARKETING | 407-3954701 | SAM WHITE | GOLF COURSE | 02/04/2020 | 199.00 |
| IN *AQUATIC RESOURCES, | 303-7959332 | JAMES VAUGHAN | REC CENTER | 02/11/2020 | 60.00 |
| IN *ARROWHEAD SCIENTIF | 913-8948388 | ERICA BERZINS | POLICE | 01/28/2020 | 702.69 |
| IN *BJ RUBBER STAMPS | 727-3274950 | MEREDYTH MUTH | CITY MANAGER | 02/03/2020 | 40.35 |
| IN *KAISER LOCK & KEY | 303-4493880 | VICKIE ILKO | OPERATIONS | 02/06/2020 | 164.88 |
| IN *RAGE UNLIMITED, IN | 303-4446506 | BENJAMIN WHITE-PATARINO | PARKS | 02/19/2020 | 391.40 |
| IN *THE CHILD HEALTH C | 303-4312446 | AMANDA PERERA | REC CENTER | 02/07/2020 | 109.00 |
| INTERMOUNTAIN SAFETY | GOLDEN | STEVE ROELS | PARKS | 01/31/2020 | 150.00 |
| INTERMOUNTAIN SAFETY | GOLDEN | CATHERINE JEPSON | PARKS | 01/31/2020 | 143.86 |
| INTERNATIONAL INSTITUT | 909-9444162 | MEREDYTH MUTH | CITY MANAGER | 02/06/2020 | 210.00 |
| INSTANT IMPRINTS LOUIS | LOUISVILLE | JESSE DEGRAW | REC CENTER | 02/10/2020 | 495.56 |
| JAX RANCH & HOME | LAFAYETTE | KEN MATHEWS | OPERATIONS | 02/19/2020 | 144.99 |
| JAX RANCH & HOME | LAFAYETTE | BENJAMIN FRANCISCO | OPERATIONS | 02/19/2020 | 69.99 |
| JAX RANCH & HOME | LAFAYETTE | NORMAN MERLO | GOLF COURSE | 02/13/2020 | 99.99 |
| JAX RANCH & HOME | LAFAYETTE | DESHAUN BECERRIL | OPERATIONS | 01/26/2020 | 164.41 |
| JERSEY MIKES 22024 | LOUISVILLE | JEN KENNEY | POLICE | 02/14/2020 | 107.34 |
| KAISER ROCK CREEK PHAR | LAFAYETTE | CALVIN MCCARTY | OPERATIONS | 01/21/2020 | 26.37 |
| KENTSPORTSALPHAGOLF | 8187259720 | DAVID BARIL | GOLF COURSE | 01/30/2020 | 382.99 |
| KING SOOPERS #0013 | LOUISVILLE | REBECCA ST ORES | REC CENTER | 02/19/2020 | 24.68 |
| KING SOOPERS #0013 | LOUISVILLE | KRISTEN BODINE | LIBRARY | 02/18/2020 | 6.74 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| KING SOOPERS #0013 | LOUISVILLE | KATIE BEASLEY | REC CENTER | 02/14/2020 | 214.82 |
| KING SOOPERS #0013 | LOUISVILLE | KATHERINE ZOSS | CITY MANAGER | 02/15/2020 | 55.16 |
| KING SOOPERS #0013 | LOUISVILLE | PHIL LIND | FACILITIES | 02/13/2020 | 17.96 |
| KING SOOPERS #0013 | LOUISVILLE | MEREDITH KRAUTLER-KLEMI | REC CENTER | 02/06/2020 | 156.52 |
| KING SOOPERS #0013 | LOUISVILLE | KATIE BEASLEY | REC CENTER | 02/03/2020 | 251.88 |
| KING SOOPERS #0013 | LOUISVILLE | AMANDA PERERA | REC CENTER | 02/01/2020 | 203.10 |
| KING SOOPERS #0013 | LOUISVILLE | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/30/2020 | 291.71 |
| KING SOOPERS #0013 | LOUISVILLE | REBECCA ST ORES | REC CENTER | 01/28/2020 | 65.23 |
| KING SOOPERS #0013 | LOUISVILLE | DAWN BURGESS | CITY MANAGER | 01/27/2020 | 120.63 |
| KING SOOPERS #0013 | LOUISVILLE | KATHLEEN HIX | HUMAN RESOURCES | 01/22/2020 | 33.65 |
| KING SOOPERS #0013 | LOUISVILLE | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/22/2020 | 476.21 |
| LAKESHORE LEARNING MAT | 3105374778 | JILL SIEWERT | LIBRARY | 02/08/2020 | 229.95 |
| LAKESHORE LEARNING MAT | 3105374778 | LANA FAUVER | REC CENTER | 02/04/2020 | 80.47 |
| LAMARS DONUTS- | LOUISVILLE | DAVID D HAYES | POLICE | 02/14/2020 | 32.37 |
| LAMARS DONUTS- | LOUISVILLE | CHRISTOPHER HUMPHREYS | POLICE | 02/12/2020 | 10.79 |
| LANCE PFEIFER SNAP ON | FIRESTONE | CALVIN MCCARTY | OPERATIONS | 01/27/2020 | 93.00 |
| LEISURE TIME AWARDS | BOULDER | CHERYL KELLER | POLICE | 02/06/2020 | 33.00 |
| LES MILLS US TRADING | 6308285949 | LINDSEY WITTY | REC CENTER | 02/05/2020 | 549.00 |
| LEWAN TECHNOLOGY | DENVER | DIANE M KREAGER | FINANCE | 02/14/2020 | 743.62 |
| LEWAN TECHNOLOGY | DENVER | DIANE M KREAGER | FINANCE | 02/14/2020 | 1,639.00 |
| LEWAN TECHNOLOGY | DENVER | DIANE M KREAGER | FINANCE | 02/14/2020 | 961.67 |
| LEWAN TECHNOLOGY | DENVER | DIANE M KREAGER | FINANCE | 02/14/2020 | 77.17 |
| LL JOHNSON DIST CO | DENVER | CONNOR POWERS | GOLF COURSE | 02/19/2020 | 25.85 |
| LL JOHNSON DIST CO | DENVER | CONNOR POWERS | GOLF COURSE | 02/19/2020 | 91.83 |
| LL JOHNSON DIST CO | DENVER | CONNOR POWERS | GOLF COURSE | 02/19/2020 | 42.44 |
| LL JOHNSON DIST CO | DENVER | CONNOR POWERS | GOLF COURSE | 02/19/2020 | 26.56 |
| LL JOHNSON DIST CO | DENVER | CONNOR POWERS | GOLF COURSE | 02/19/2020 | 114.33 |
| LOGMEIN*GOTOMEETING | LOGMEIN.COM | JEFFREY FISHER | POLICE | 02/10/2020 | 49.00 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/19/2020 | 32.32 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/18/2020 | 184.11 |
| LOWES #00220* | LOUISVILLE | MIKE MILLER | POLICE | 02/18/2020 | 102.40 |
| LOWES #00220* | LOUISVILLE | DAVID DEAN | GOLF COURSE | 02/18/2020 | 50.92 |
| LOWES #00220* | LOUISVILLE | KATHERINE ZOSS | CITY MANAGER | 02/14/2020 | 127.84 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/12/2020 | 26.94 |
| LOWES #00220* | LOUISVILLE | CATHERINE JEPSON | PARKS | 02/12/2020 | 34.16 |
| LOWES #00220* | LOUISVILLE | DAVID DEAN | GOLF COURSE | 02/12/2020 | 4.26 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/11/2020 | 30.90 |
| LOWES #00220* | LOUISVILLE | CONNOR POWERS | GOLF COURSE | 02/11/2020 | 8.16 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/10/2020 | 26.26 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/07/2020 | 24.70 |
| LOWES #00220* | LOUISVILLE | BRIAN GARDUNO | OPERATIONS | 02/06/2020 | 39.92 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 02/06/2020 | 79.96 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| LOWES #00220* | LOUISVILLE | CONNOR POWERS | GOLF COURSE | 02/06/2020 | 108.44 |
| LOWES #00220* | LOUISVILLE | CONNOR POWERS | GOLF COURSE | 02/06/2020 | 74.92 |
| LOWES #00220* | LOUISVILLE | PATRICIA MORGAN | REC CENTER | 02/06/2020 | -63.92 |
| LOWES #00220* | LOUISVILLE | PATRICIA MORGAN | REC CENTER | 02/06/2020 | 63.92 |
| LOWES #00220* | LOUISVILLE | CONNOR POWERS | GOLF COURSE | 02/05/2020 | 39.96 |
| LOWES #00220* | LOUISVILLE | DAVID BARIL | GOLF COURSE | 02/05/2020 | -17.10 |
| LOWES #00220* | LOUISVILLE | DAVID DEAN | GOLF COURSE | 02/03/2020 | 23.13 |
| LOWES #00220* | LOUISVILLE | DAVID BARIL | GOLF COURSE | 01/31/2020 | 32.42 |
| LOWES #00220* | LOUISVILLE | BRIAN GARDUNO | OPERATIONS | 01/30/2020 | 39.24 |
| LOWES #00220* | LOUISVILLE | BRIAN GARDUNO | OPERATIONS | 01/30/2020 | 91.26 |
| LOWES #00220* | LOUISVILLE | CONNOR POWERS | GOLF COURSE | 01/27/2020 | 1.35 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 01/24/2020 | 43.42 |
| LOWES #00220* | LOUISVILLE | PHIL LIND | FACILITIES | 01/24/2020 | 11.92 |
| LOWES #00220* | LOUISVILLE | CATHERINE JEPSON | PARKS | 01/23/2020 | 9.44 |
| LOWES #00220* | LOUISVILLE | DAVID D HAYES | POLICE | 01/23/2020 | 30.94 |
| LOWES #00220* | LOUISVILLE | DAVID DEAN | GOLF COURSE | 01/22/2020 | 3.42 |
| MAC EQUIPMENT INC (LON | LONGMONT | ERIK SWIATEK | PARKS | 02/14/2020 | 527.92 |
| MAC EQUIPMENT INC (LON | LONGMONT | AARON GRANT | PARKS | 02/11/2020 | 92.58 |
| MAC EQUIPMENT INC (LON | LONGMONT | CONNOR POWERS | GOLF COURSE | 01/22/2020 | 69.90 |
| MAILCHIMP *MONTHLY | MAILCHIMP.COM | GLORIA HANDYSIDE | CITY MANAGER | 02/18/2020 | 194.65 |
| MARCOS PIZZA - 6005 | SUPERIOR | PEGGY JONES | REC CENTER | 02/08/2020 | 65.92 |
| MARCOS PIZZA - 6005 | SUPERIOR | CHERYL KELLER | POLICE | 02/05/2020 | 71.78 |
| MASABI-LLC-RTD-DENVER | 303-299-6000 | MARYANN DORNFELD | PARKS | 02/07/2020 | 10.50 |
| MASABI-LLC-RTD-DENVER | 303-299-6000 | MARYANN DORNFELD | PARKS | 02/06/2020 | 10.50 |
| MASABI-LLC-RTD-DENVER | 303-299-6000 | MARYANN DORNFELD | PARKS | 02/05/2020 | 10.50 |
| MASTERGRAPHICS.AEC | 720-2153791 | DIANE M KREAGER | FINANCE | 02/06/2020 | 1,650.00 |
| MCGUCKIN HARDWARE | BOULDER | DAVID D HAYES | POLICE | 02/01/2020 | 22.41 |
| MICHAELS STORES 2059 | SUPERIOR | BENJAMIN WHITE-PATARINO | PARKS | 02/17/2020 | 53.92 |
| MICHAELS STORES 2059 | SUPERIOR | REBECCA ST ORES | REC CENTER | 02/04/2020 | 14.48 |
| MICHAELS STORES 5049 | WESTMINSTER | CHERYL KELLER | POLICE | 01/24/2020 | 21.99 |
| MMM SPEC AGG QUARRY | DENVER | NICHOLAS POTOPCHUK | PARKS | 01/21/2020 | -331.38 |
| MORRELL PRINTING SOLUT | LAFAYETTE | KATHERINE ZOSS | CITY MANAGER | 01/23/2020 | 391.25 |
| MSFT * E0500A6LLO | MSFT AZURE | DANIEL WOOLDRIDGE | IT | 02/01/2020 | 115.56 |
| MTNSTATEEM | 3032235419 | KATHLEEN HIX | HUMAN RESOURCES | 02/07/2020 | 20.00 |
| MARINA POOL, SPA, & PA | LAKEWOOD | JAMES VAUGHAN | REC CENTER | 01/30/2020 | 104.46 |
| MESSAGE MEDIA | SAN FRANCISCO | GLORIA HANDYSIDE | CITY MANAGER | 02/14/2020 | 100.00 |
| NAPA AUTO PART 0026903 | LOUISVILLE | ROSS DAVIS | OPERATIONS | 02/14/2020 | 60.94 |
| NAPA AUTO PART 0026903 | LOUISVILLE | MICHAEL TOWERS | PARKS | 02/13/2020 | 12.12 |
| NAPA AUTO PART 0026903 | LOUISVILLE | ANDY ELLIS | PARKS | 02/10/2020 | 25.51 |
| NATIONAL ACADEMY OF SP | 8004606276 | LINDSEY WITTY | REC CENTER | 02/12/2020 | 99.00 |
| NATIONAL GOLF FOUNDATI | JUPITER | SAM WHITE | GOLF COURSE | 01/28/2020 | 250.00 |
| NATIONAL LAW ENFORCEME | 800-9302953 | MIKE MILLER | POLICE | 01/20/2020 | 350.00 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| NORTHWEST PARKWAY LLC | 303-9262500 | DIANE M KREAGER | FINANCE | 02/04/2020 | 10.85 |
| NSC*NORTHERN SAFETY CO | 800-631-1246 | ANGELA NORENE | OPERATIONS | 01/30/2020 | 128.78 |
| NSC*NORTHERN SAFETY CO | 800-631-1246 | ANGELA NORENE | OPERATIONS | 01/30/2020 | 128.78 |
| O MEARA FORD | NORTHGLENN | CALVIN MCCARTY | OPERATIONS | 02/04/2020 | 23.98 |
| OFFICE DEPOT #1080 | 800-463-3768 | ELIZABETH SCHETTLER | PLANNING | 01/30/2020 | 98.98 |
| OFFICE DEPOT #1080 | 800-463-3768 | DAVID BARIL | GOLF COURSE | 01/29/2020 | 59.98 |
| OUTBACK STEAKHOUSE0616 | LOUISVILLE | CALVIN MCCARTY | OPERATIONS | 02/03/2020 | 23.60 |
| PASTPERFECT SOFTWARE | 8005626080 | BRIDGET BACON | LIBRARY | 02/13/2020 | 412.00 |
| PASTPERFECT SOFTWARE | 8005626080 | BRIDGET BACON | LIBRARY | 01/29/2020 | 432.00 |
| PAYFLOW/PAYPAL | 8888839770 | DIANE M KREAGER | FINANCE | 02/03/2020 | 19.95 |
| PAYFLOW/PAYPAL | 8888839770 | DIANE M KREAGER | FINANCE | 02/03/2020 | 59.95 |
| PAYPAL *AIRS INC | 4029357733 | MIKE MILLER | POLICE | 02/10/2020 | 500.00 |
| PAYPAL *COLORADOASS | 4029357733 | LAURA LOBATO | POLICE | 01/22/2020 | 90.00 |
| PAYPAL *INDIGOWATER | 4029357733 | GREG VENETTE | WATER | 02/18/2020 | 50.00 |
| PAYPAL *INDIGOWATER | 4029357733 | MARC DENNY | WASTEWATER | 02/03/2020 | 192.00 |
| PAYPAL *INDIGOWATER | 4029357733 | MICHAEL CLEVELAND | OPERATIONS | 02/03/2020 | 72.00 |
| PAYPAL *INDIGOWATER | 4029357733 | GREG VENETTE | WATER | 02/02/2020 | 30.00 |
| PAYPAL *INDIGOWATER | 4029357733 | GREG VENETTE | WATER | 02/02/2020 | 40.00 |
| PAYPAL *INDIGOWATER | 4029357733 | MARC DENNY | WASTEWATER | 01/22/2020 | 10.00 |
| PAYPAL *ITHAKAHARBO | 4029357733 | KURT KOWAR | PUBLIC WORKS | 01/24/2020 | 46.00 |
| PAYPAL *ITHAKAHARBO | 4029357733 | KURT KOWAR | PUBLIC WORKS | 01/24/2020 | 46.00 |
| PAYPAL *NEON | 4029357733 | KATIE BAUM | CITY MANAGER | 02/10/2020 | 530.00 |
| PAYPAL *SOCIETYROCK | 4029357733 | BRIDGET BACON | LIBRARY | 02/05/2020 | 25.00 |
| PAYPAL *WEBSTAURANT | 4029357733 | CHERYL KELLER | POLICE | 02/10/2020 | -1.45 |
| PAYPAL *WEBSTAURANT | 4029357733 | CHERYL KELLER | POLICE | 02/07/2020 | 44.46 |
| PETSMART # 1015 | SUPERIOR | KRISTEN PORTER | REC CENTER | 02/03/2020 | 28.36 |
| PGH WATER COOLER | 4124877105 | MIKE KARBGINSKY | FACILITIES | 02/14/2020 | 394.00 |
| PIONEER SAND CO 15 | BROOMFIELD | MATT LOOMIS | PARKS | 01/28/2020 | 634.26 |
| PIONEER SAND CO 15 | BROOMFIELD | DANIEL PEER | PARKS | 01/28/2020 | 428.88 |
| PIONEER SAND CO 15 | BROOMFIELD | DAVID ALDERS | PARKS | 01/27/2020 | 684.67 |
| PIONEER SAND CO 15 | BROOMFIELD | KERRY KRAMER | PARKS | 01/24/2020 | 423.36 |
| PIONEER SAND CO 15 | BROOMFIELD | KERRY KRAMER | PARKS | 01/24/2020 | 242.01 |
| PLUG N PAY INC | 800-945-2538 | JULIE SEYDEL | REC CENTER | 02/05/2020 | 253.95 |
| PRAIRIE MOUNTAIN MEDIA | 8884549588 | DIANE M KREAGER | FINANCE | 02/19/2020 | 1,152.80 |
| PRESCHOOL TEACHER 101 | 4077568918 | LANA FAUVER | REC CENTER | 02/01/2020 | 5.00 |
| PRESTIGE FLAG MFG CO I | 800-5765155 | DAVID DEAN | GOLF COURSE | 02/14/2020 | 437.05 |
| PROGREEN EXPO19 | 3037983664 | AARON GRANT | PARKS | 02/06/2020 | 40.00 |
| PET SCOOP, INC. / PET | 303-202-1899 | DRUSILLA TIEBEN | PARKS | 02/01/2020 | 600.00 |
| RACETRAC 586 00005868 | ORLANDO | DAVID BARIL | GOLF COURSE | 01/23/2020 | 25.07 |
| RAWHIDE FIRE HOSE | 330-6010607 | VICKIE ILKO | OPERATIONS | 02/17/2020 | 201.00 |
| RESIDENCE INN | LONG BEACH | REMY RODRIGUES | IT | 02/15/2020 | 435.54 |
| ROADSAFE 3101 | 401-2534600 | THOMAS CZAJKA | OPERATIONS | 02/18/2020 | 405.23 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| ROCKY MOUNTAIN WATER | GREELEY | DAVID DEAN | GOLF COURSE | 01/28/2020 | 455.26 |
| ROCKYMOUNTAINASPHALT | DENVER | KERRY HOLLE | PUBLIC WORKS | 01/21/2020 | 370.00 |
| ROLLER & ASSOCIATES IN | DENVER | DAVID DEAN | GOLF COURSE | 01/30/2020 | 124.30 |
| RVT*BVSD FACILITY USE | 720-5615202 | KATHY MARTIN | REC CENTER | 02/04/2020 | 1,331.50 |
| S&S WORLDWIDE, INC. | COLCHESTER | LANA FAUVER | REC CENTER | 01/23/2020 | 49.16 |
| SAFETY AND CONSTRUCTIO | DENVER | JACK MANIAN | OPERATIONS | 02/12/2020 | 163.54 |
| SAFETY AND CONSTRUCTIO | DENVER | JACK MANIAN | OPERATIONS | 02/12/2020 | 16.94 |
| SAFEWAY #1045 | FT LUPTON | MASON THOMPSON | OPERATIONS | 02/15/2020 | 23.75 |
| SAFEWAY #2812 | LOUISVILLE | KATIE BEASLEY | REC CENTER | 02/17/2020 | 55.21 |
| SAFEWAY #2812 | LOUISVILLE | LANA FAUVER | REC CENTER | 02/04/2020 | 10.17 |
| SAFEWAY #2812 | LOUISVILLE | REBECCA ST ORES | REC CENTER | 02/02/2020 | 6.77 |
| SAFEWAY #2812 | LOUISVILLE | DAVID D HAYES | POLICE | 01/29/2020 | 15.29 |
| SAMEDAY OFFICE SUPPLY | HOLLY@SAMEDAY | ELIZABETH SCHETTLER | PLANNING | 01/23/2020 | 677.66 |
| SANTIAGOS MEXICAN REST | LONGMONT | JEFFREY FISHER | POLICE | 02/05/2020 | 56.00 |
| SAVING PLACES 2020 A | 5712268300 | DAWN BURGESS | CITY MANAGER | 01/29/2020 | -25.00 |
| SAVING PLACES 2020 A | 5712268300 | ROBERT ZUCCARO | PLANNING | 01/29/2020 | -25.00 |
| SFPE ROCKY MOUNTAIN CH | 303-2523542 | CHAD ROOT | BUILDING SAFETY | 02/05/2020 | 25.00 |
| SHERWIN WILLIAMS 70348 | LAFAYETTE | GREG VENETTE | WATER | 02/18/2020 | 82.72 |
| SHRED-IT | 8666474733 | DIANE M KREAGER | FINANCE | 02/04/2020 | 30.00 |
| SIP.US LLC | 800-566-9810 | JUSTIN ELKINS | WASTEWATER | 02/10/2020 | 28.83 |
| SITEONE LANDSCAPE SUPP | BROOMFIELD | MICHAEL TOWERS | PARKS | 02/11/2020 | 387.10 |
| SITEONE LANDSCAPE SUPP | BROOMFIELD | DANIEL PEER | PARKS | 01/23/2020 | 235.73 |
| SMASHBURGER #1525 | LOUISVILLE | DESHAUN BECERRIL | OPERATIONS | 02/04/2020 | 49.95 |
| SMK*SURVEYMONKEY.COM | 971-2445555 | DAWN BURGESS | CITY MANAGER | 01/24/2020 | 384.00 |
| SOURCE OFFICE - VITAL | GOLDEN | MEREDYTH MUTH | CITY MANAGER | 02/10/2020 | 62.41 |
| SOURCE OFFICE - VITAL | GOLDEN | ANGELA NORENE | OPERATIONS | 02/06/2020 | 324.94 |
| SOURCE OFFICE - VITAL | GOLDEN | LESLIE RINGER | HUMAN RESOURCES | 01/31/2020 | 45.10 |
| SOURCE OFFICE - VITAL | GOLDEN | LESLIE RINGER | HUMAN RESOURCES | 01/30/2020 | 311.79 |
| SOURCE OFFICE - VITAL | GOLDEN | ANGELA NORENE | OPERATIONS | 01/29/2020 | 185.96 |
| SOURCE OFFICE - VITAL | GOLDEN | JIM GILBERT | PARKS | 01/28/2020 | 3.14 |
| SOURCE OFFICE - VITAL | GOLDEN | JIM GILBERT | PARKS | 01/27/2020 | 137.95 |
| SOURCE OFFICE - VITAL | GOLDEN | KERRY HOLLE | PUBLIC WORKS | 01/24/2020 | 117.33 |
| SOURCE OFFICE - VITAL | GOLDEN | ANGELA NORENE | OPERATIONS | 01/22/2020 | 197.83 |
| SOUTHWEST AIRLINES | 800-435-9792 | LISA RITCHIE | PLANNING | 02/12/2020 | 189.96 |
| SOUTHWEST AIRLINES | 800-435-9792 | ELIZABETH SCHETTLER | PLANNING | 02/04/2020 | 373.96 |
| SOUTHWEST AIRLINES | 800-435-9792 | JOHN BROOKS | POLICE | 01/23/2020 | 337.96 |
| SQ *B.O.B.S. DINER | LOUISVILLE | DAWN BURGESS | CITY MANAGER | 02/17/2020 | 34.98 |
| SQ *B.O.B.S. DINER | LOUISVILLE | DAWN BURGESS | CITY MANAGER | 02/11/2020 | 54.96 |
| SQ *B.O.B.S. DINER | LOUISVILLE | VICKIE ILKO | OPERATIONS | 02/11/2020 | 118.74 |
| SQ *B.O.B.S. DINER | LOUISVILLE | VICKIE ILKO | OPERATIONS | 02/07/2020 | 109.56 |
| SQ *B.O.B.S. DINER | LOUISVILLE | KERRY HOLLE | PUBLIC WORKS | 01/29/2020 | 146.97 |
| SQ *HISTORIC DENVER IN | DENVER | KATIE BEASLEY | REC CENTER | 02/18/2020 | 103.00 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| SQ *MOE'S BROADWAY BAG | LOUISVILLE | CHERYL KELLER | POLICE | 01/30/2020 | 18.71 |
| SQ *S&S SERVICES INC., | BROOMFIELD | CALVIN MCCARTY | OPERATIONS | 02/03/2020 | 89.00 |
| STAPLS7303848351000002 | 877-8267755 | ERIN OWEN | LIBRARY | 01/21/2020 | 93.27 |
| STAPLS7303930755000001 | 877-8267755 | CHERYL KELLER | POLICE | 01/21/2020 | 248.59 |
| STAPLS7304039963000001 | 877-8267755 | DIANE M KREAGER | FINANCE | 01/24/2020 | 110.37 |
| STAPLS7304215028000001 | 877-8267755 | CHERYL KELLER | POLICE | 01/30/2020 | 177.87 |
| STAPLS7304803345000001 | 877-8267755 | DIANE M KREAGER | FINANCE | 02/19/2020 | 1,719.80 |
| STATEFOODSAFETYCOM | 8014941416 | PATRICIA MORGAN | REC CENTER | 02/08/2020 | 13.00 |
| STK*SHUTTERSTOCK | 8666633954 | EMILY HOGAN | CITY MANAGER | 02/19/2020 | 99.00 |
| STORE SUPPLY WAREHOUSE | 800-823-8887 | DAVID BARIL | GOLF COURSE | 02/11/2020 | -1.31 |
| STORE SUPPLY WAREHOUSE | 800-823-8887 | DAVID BARIL | GOLF COURSE | 02/07/2020 | 34.05 |
| SPICE CHINA | LOUISVILLE | DAVID D HAYES | POLICE | 01/20/2020 | 21.50 |
| TARGET 00017699 | SUPERIOR | KRISTEN PORTER | REC CENTER | 02/18/2020 | 11.12 |
| TARGET 00017699 | SUPERIOR | CATHERINE JEPSON | PARKS | 02/12/2020 | 29.99 |
| TARGET 00017699 | SUPERIOR | REBECCA ST ORES | REC CENTER | 02/09/2020 | 17.57 |
| TARGET 00017699 | SUPERIOR | MEREDITH KRAUTLER-KLEMI | REC CENTER | 01/23/2020 | 300.57 |
| TBS WESTERN REGION | 949-2674200 | AMANDA PERERA | REC CENTER | 02/06/2020 | 335.01 |
| THE HOME DEPOT #1506 | LOUISVILLE | ROSS DAVIS | OPERATIONS | 02/18/2020 | 23.44 |
| THE HOME DEPOT #1506 | LOUISVILLE | MICHAEL TOWERS | PARKS | 02/18/2020 | 66.74 |
| THE HOME DEPOT #1506 | LOUISVILLE | MICHAEL TOWERS | PARKS | 02/18/2020 | 16.44 |
| THE HOME DEPOT #1506 | LOUISVILLE | GREG VENETTE | WATER | 02/13/2020 | 130.80 |
| THE HOME DEPOT #1506 | LOUISVILLE | JACK MANIAN | OPERATIONS | 02/13/2020 | 60.65 |
| THE HOME DEPOT #1506 | LOUISVILLE | JACK MANIAN | OPERATIONS | 02/14/2020 | 53.82 |
| THE HOME DEPOT #1506 | LOUISVILLE | DAVID ALDERS | PARKS | 02/14/2020 | 51.61 |
| THE HOME DEPOT #1506 | LOUISVILLE | JAMES VAUGHAN | REC CENTER | 02/13/2020 | 25.95 |
| THE HOME DEPOT #1506 | LOUISVILLE | ROSS DAVIS | OPERATIONS | 02/13/2020 | 118.91 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 02/12/2020 | 58.39 |
| THE HOME DEPOT #1506 | LOUISVILLE | CATHERINE JEPSON | PARKS | 02/12/2020 | 19.96 |
| THE HOME DEPOT #1506 | LOUISVILLE | MASON THOMPSON | OPERATIONS | 02/12/2020 | 40.87 |
| THE HOME DEPOT #1506 | LOUISVILLE | CHAD ROOT | BUILDING SAFETY | 02/11/2020 | 109.28 |
| THE HOME DEPOT #1506 | LOUISVILLE | PHIL LIND | FACILITIES | 02/10/2020 | 27.13 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 02/10/2020 | 129.56 |
| THE HOME DEPOT #1506 | LOUISVILLE | MARC DENNY | WASTEWATER | 02/06/2020 | 194.84 |
| THE HOME DEPOT #1506 | LOUISVILLE | DANIEL PEER | PARKS | 02/06/2020 | 35.27 |
| THE HOME DEPOT #1506 | LOUISVILLE | VICKIE ILKO | OPERATIONS | 02/06/2020 | 3.70 |
| THE HOME DEPOT #1506 | LOUISVILLE | THOMAS CZAJKA | OPERATIONS | 02/05/2020 | 24.97 |
| THE HOME DEPOT #1506 | LOUISVILLE | DAVID D HAYES | POLICE | 02/02/2020 | -9.56 |
| THE HOME DEPOT #1506 | LOUISVILLE | DAVID D HAYES | POLICE | 02/02/2020 | 2.39 |
| THE HOME DEPOT #1506 | LOUISVILLE | KEN MATHEWS | OPERATIONS | 01/30/2020 | 39.94 |
| THE HOME DEPOT #1506 | LOUISVILLE | KEN MATHEWS | OPERATIONS | 01/31/2020 | 22.72 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/31/2020 | 20.26 |
| THE HOME DEPOT #1506 | LOUISVILLE | DAVID D HAYES | POLICE | 02/01/2020 | 9.56 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| THE HOME DEPOT #1506 | LOUISVILLE | MATT LOOMIS | PARKS | 01/29/2020 | 18.98 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/29/2020 | 103.36 |
| THE HOME DEPOT #1506 | LOUISVILLE | JAMES VAUGHAN | REC CENTER | 01/29/2020 | 29.80 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/27/2020 | 44.30 |
| THE HOME DEPOT #1506 | LOUISVILLE | BRADLEY AUSTIN | PARKS | 01/23/2020 | 12.88 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/23/2020 | 29.27 |
| THE HOME DEPOT #1506 | LOUISVILLE | JACK MANIAN | OPERATIONS | 01/23/2020 | 9.45 |
| THE HOME DEPOT #1506 | LOUISVILLE | DANIEL PEER | PARKS | 01/23/2020 | 166.15 |
| THE HOME DEPOT #1506 | LOUISVILLE | JAMES VAUGHAN | REC CENTER | 01/24/2020 | 10.96 |
| THE HOME DEPOT #1506 | LOUISVILLE | MATT LOOMIS | PARKS | 01/22/2020 | 14.97 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/22/2020 | 47.28 |
| THE HOME DEPOT #1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/22/2020 | 22.91 |
| THE HOME DEPOT #1506 | LOUISVILLE | JAMES VAUGHAN | REC CENTER | 01/22/2020 | 3.47 |
| THE HOME DEPOT #1506 | LOUISVILLE | JACK MANIAN | OPERATIONS | 01/21/2020 | -42.01 |
| THE HOME DEPOT #1506 | LOUISVILLE | JACK MANIAN | OPERATIONS | 01/21/2020 | 45.87 |
| THE HOME DEPOT 1506 | LOUISVILLE | JAMES VAUGHAN | REC CENTER | 02/05/2020 | 86.95 |
| THE HOME DEPOT 1506 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/27/2020 | 82.83 |
| THE IRRIGATION ASSOC | 703-536-7080 | MATT LOOMIS | PARKS | 02/19/2020 | 495.00 |
| THE PARKWAY CAFE | BOULDER | DAVID D HAYES | POLICE | 02/13/2020 | 31.50 |
| THE UPS STORE #5183 | SUPERIOR | GREG VENETTE | WATER | 01/29/2020 | 83.26 |
| TIBET'S RESTAURANT & B | LOUISVILLE | JUSTIN ELKINS | WASTEWATER | 02/13/2020 | 57.80 |
| TIME PARK LOT 20A | DENVER | MEGAN DAVIS | CITY MANAGER | 02/03/2020 | 17.00 |
| TOOLTOPIA | 8007946793 | CALVIN MCCARTY | OPERATIONS | 01/27/2020 | -12.17 |
| TOOLTOPIA | 8007946793 | CALVIN MCCARTY | OPERATIONS | 01/27/2020 | 153.16 |
| TST* LEVEN DELI | DENVER | DAVID D HAYES | POLICE | 01/31/2020 | 49.25 |
| TST* LULU S BBQ | LOUISVILLE | DAVID D HAYES | POLICE | 02/06/2020 | 30.60 |
| TST* THE HUCKLEBERRY | LOUISVILLE | DAVID D HAYES | POLICE | 02/07/2020 | 19.00 |
| TST* THE HUCKLEBERRY | LOUISVILLE | DAVID D HAYES | POLICE | 02/06/2020 | 33.10 |
| TST* THE HUCKLEBERRY | LOUISVILLE | JEFFREY FISHER | POLICE | 01/25/2020 | 22.50 |
| TST* THE HUCKLEBERRY | LOUISVILLE | DAVID D HAYES | POLICE | 01/24/2020 | 26.45 |
| TST* THE HUCKLEBERRY | LOUISVILLE | KURT KOWAR | PUBLIC WORKS | 01/23/2020 | 28.00 |
| TST* VERDE - LOUISVILL | LOUISVILLE | KATHLEEN HIX | HUMAN RESOURCES | 01/23/2020 | 118.16 |
| UBREAKIFIX - LAFAYETTE | LAFAYETTE | DAVID BARIL | GOLF COURSE | 01/28/2020 | 82.50 |
| UNITED AIRLINES | 800-932-2732 | NATHAN MOSLEY | PARKS | 01/28/2020 | 652.81 |
| UNITED AIRLINES | 800-932-2732 | MEGAN DAVIS | CITY MANAGER | 01/27/2020 | 287.40 |
| UNITED AIRLINES | 800-932-2732 | MEGAN DAVIS | CITY MANAGER | 01/27/2020 | 99.00 |
| UNITED REFRIG BR #T9 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/29/2020 | 61.88 |
| UNITED REFRIG BR #T9 | LOUISVILLE | MIKE KARBGINSKY | FACILITIES | 01/22/2020 | 75.80 |
| USA BLUE BOOK | 8004939876 | MARC DENNY | WASTEWATER | 02/12/2020 | 185.81 |
| USGA MEMBERSHIP | 800-2230041 | SAM WHITE | GOLF COURSE | 02/11/2020 | 150.00 |
| VENNGAGE.COM | TORONTO | EMILY HOGAN | CITY MANAGER | 02/15/2020 | 19.00 |
| VISTAPR*VISTAPRINT.COM | 866-8936743 | SHAIRA WHITTLE | POLICE | 02/01/2020 | -10.93 |

| SUPPLIER | SUPPLIER LOCATION | CARDHOLDER | DEPARTMENT | TRANS DATE | AMOUNT |
|---|---|---|---|---|---|
| VISTAPR*VISTAPRINT.COM | 866-8936743 | SHAIRA WHITTLE | POLICE | 02/01/2020 | -1.06 |
| VISTAPR*VISTAPRINT.COM | 866-8936743 | SHAIRA WHITTLE | POLICE | 01/30/2020 | 239.35 |
| VWR INTERNATIONAL INC | 8009325000 | MARC DENNY | WASTEWATER | 02/14/2020 | 277.00 |
| VZWRLSS*MY VZ VB P | 800-922-0204 | DIANE M KREAGER | FINANCE | 02/05/2020 | 3,035.25 |
| VZWRLSS*MY VZ VB P | 800-922-0204 | DIANE M KREAGER | FINANCE | 01/24/2020 | 645.03 |
| VZWRLSS*MY VZ VB P | 800-922-0204 | DIANE M KREAGER | FINANCE | 01/24/2020 | 1,163.17 |
| VZWRLSS*PRPAY AUTOPAY | 888-294-6804 | CRAIG DUFFIN | PUBLIC WORKS | 02/05/2020 | 20.00 |
| WATERLOO ICEHOUSE | LOUISVILLE | MICHAEL CLEVELAND | OPERATIONS | 02/03/2020 | 32.00 |
| WAV*SCHAEFER ATHLETIC | 303-7756060 | AMANDA PERERA | REC CENTER | 02/13/2020 | 243.00 |
| WHITESIDES BOOTS AND C | BRIGHTON | ROSS DAVIS | OPERATIONS | 02/17/2020 | 139.99 |
| WHITESIDES BOOTS AND C | BRIGHTON | ROSS DAVIS | OPERATIONS | 02/17/2020 | 150.00 |
| WHITESIDES BOOTS AND C | BRIGHTON | THOMAS CZAJKA | OPERATIONS | 02/10/2020 | 99.99 |
| WHITESIDES BOOTS AND C | BRIGHTON | JACK MANIAN | OPERATIONS | 02/10/2020 | 139.99 |
| WHITESIDES BOOTS AND C | BRIGHTON | JACK MANIAN | OPERATIONS | 02/10/2020 | 150.00 |
| WHITESIDES BOOTS AND C | BRIGHTON | JACK MANIAN | OPERATIONS | 02/10/2020 | 119.99 |
| WHITESIDES BOOTS AND C | BRIGHTON | ERIK SWIATEK | PARKS | 01/24/2020 | 139.99 |
| WILSONS LODGE OGLEBAY | WHEELING | KATHY MARTIN | REC CENTER | 02/14/2020 | 1,792.76 |
| WM SUPERCENTER #1045 | LAFAYETTE | KERRY KRAMER | PARKS | 01/29/2020 | 59.28 |
| WM SUPERCENTER #5341 | BROOMFIELD | LANA FAUVER | REC CENTER | 02/16/2020 | 19.22 |
| WWW.JRORDERS.COM | 954-7413433 | DIANE M KREAGER | FINANCE | 02/07/2020 | 1,425.18 |
| WWW.PREDICTEE.COM | 9292899870 | SAM WHITE | GOLF COURSE | 02/12/2020 | 49.00 |
| YOGA DIRECT | 8888869642 | KATIE MEYER | REC CENTER | 02/07/2020 | 116.17 |
| YOURMEMBER-CAREERS | 7274976573 | KIRSTIE AMBROSE-HARLEY | HUMAN RESOURCES | 02/18/2020 | 249.00 |
| ZORO TOOLS INC | 855-2899676 | JUSTIN ELKINS | WASTEWATER | 02/14/2020 | 42.27 |
| | | NICHOLAS POTOPCHUK | PARKS | 01/21/2020 | 331.38 |
| | | ROBERT ZUCCARO | PLANNING | 01/29/2020 | 18.00 |
| | | NATHAN MOSLEY | PARKS | 01/28/2020 | -2.49 |
| | | | | | |
| **TOTAL** | | | | | **$ 95,805.98** |

| CITY OF LOUISVILLE | | | | |
|---|---|---|---|---|
| EXPENDITURE APPROVALS $25,000.00 - $99,999.99 | | | | |
| FEBRUARY 2020 | | | | |
| | | | | |
| **DATE** | **P.O. #** | **VENDOR** | **DESCRIPTION** | **AMOUNT** |
| | | | | |
| 2/6/2020 | 2020053 | Kubwater Resources Inc | Centrifuge Polymer | $87,000.00 |
| | | | | |
| | | | *Polymer is required to treat wastewater. A RFQ was posted and three* | |
| | | | *bids were received. Staff previously testing polymer, and Kubwater's* | |
| | | | *polymer outperformed the other one. While it has a slightly higher per* | |
| | | | *unit cost, it is more effective and allows for reduced hauling costs* | |
| | | | *which is a major component of the biosolids treatment budget.* | |
| | | | | |
| | | | | |
| 2/28/2020 | 2020067 | National Research Center Inc | 2020 Citizen Survey | $30,000.00 |
| | | | | |
| | | | *A RFP was issued with two proposals received. NRC provided the* | |
| | | | *lowest proposal.* | |

City of Louisville
COLORADO • SINCE 1878

# City Council

## Meeting Minutes

**February 25, 2020**
**City Hall, Council Chambers**
**749 Main Street**
**7:00 PM**

**Call to Order** – Mayor Stolzmann called the meeting to order at 7:00 p.m. Roll call was taken and the following members were present:

| | |
|---|---|
| ***City Council:*** | ***Mayor Ashley Stolzmann***<br>***Mayor Pro Tem Dennis Maloney***<br>***Councilmember Kyle Brown***<br>***Councilmember J. Caleb Dickinson***<br>***Councilmember Deborah Fahey***<br>***Councilmember Chris Leh*** |
| ***Absent:*** | ***Councilmember Jeff Lipton*** |
| ***Staff Present:*** | ***Heather Balser, City Manager***<br>***Megan Davis, Deputy City Manager***<br>***Nathan Mosely, Parks, Recreation, & Open Space Director***<br>***Dean Johnson, Parks Superintendent***<br>***Ember Brignull, Open Space Superintendent***<br>***Meredyth Muth, City Clerk*** |

**DISCUSSION/DIRECTION – INTEGRATED WEED MANAGEMENT PLAN HERBICIDE USE**

Director Mosely stated this meeting is to get direction from City Council regarding the proposed Changes to the Integrated Weed Management Plan (IWMP).

Director Mosely stated staff discusses this topic regularly and added that in 2008 herbicide use was discontinued for a while but due to community requests was continued again.

Director Mosely reviewed the integrated weed management program to help address noxious weeds. It is a high level document with no specific outcome dictated. It includes prevention, public education, monitoring weed locations, and control via biological, chemical, cultural, and mechanical means. He noted no one control method works for all species or locations.

Director Mosely reviewed current practices. For parks it includes a combination of control options including herbicide use and regulations. Herbicides are applied with spot spraying as needed and broadleaf herbicide used once each year. He stated they discontinued spraying herbicides in playgrounds in 2017. Open Space staff uses a variety of methods for weed control, the vast majority is done via mowing and hand pulling. Open Space uses a wide variety of herbicides. He noted the Open Space Division is mandated by the State Department of Agriculture to control noxious weeds. The goal is to allow native species to thrive.

He stated the Open Space Board (OSAB) supports changes to the IWMP and current operational practices related to weed management on Open Space Properties. The Parks Board (PPLAB) feels strongly the City should reduce the application of herbicides and also recommends an outreach campaign.

Director Mosely reviewed the operational alternatives for Open Space. It could remain status quo, it could allow for the use of 2, 4-D and Glyphosate on specific properties or in certain instances, or there could be a full ban of 2, 4-D on Open Space properties.

For parks the alternatives include the status quo, targeted reductions in some parts and use in other specific areas, or a full ban on 2,4-D and Glyphosate.

Staff is requesting direction on updates to the IWMP, specifically the option of no changes on Open Space, and Parks options for reducing use. He added a communication program will be needed to explain changes to residents. He stated the goal is to serve the community and manage the assets of the City.

Mayor Stolzmann asked if the 12 oz. used in Open Space included backpack spraying or if alternatives were used. Brignull stated the two methods used most on Open Space were caution level herbicides and they have replaced Glyphosate with mechanical pulling. They use Glyphosate for cheat grass treatment.

Mayor Stolzmann asked how the Department defines a greenway. Director Mosely stated those areas are non-irrigated lands that are designated as park land. Johnson stated these areas might appear as open space to people but they are maintained like a park.

Councilmember Fahey asked how Elephant Park is being maintained as it is herbicide free and why can’t this be done Citywide. She suggested using native plants Citywide to be completely herbicide free. She noted the side effects from herbicides are significant and she would like them banned particularly 2,4D and Glyphosate.

Mayor Stolzmann asked how long we have not been using herbicides in Memory Square. Johnson stated the Department has not been spraying there since 2008.

Councilmember Brown asked what our neighboring municipalities do for herbicide use and how we compare. Director Mosely stated Louisville is probably in the middle. Boulder does

not use it in their parks, but does use it in their Mountain Parks. We try to use the least amount possible to get the outcome we desire.

Councilmember Leh asked how we compare to Boulder County. Director Mosely stated the County uses herbicides in their open spaces.

Councilmember Fahey asked how the medians are treated. Director Mosely stated there is one application of broadleaf each year,

Public Comments

Mary Walker, 852 Trail Ridge Drive, stated she is an expert in this field and studies show causation of how herbicides affect people on the cellular level causing major health impacts on people. This is one exposure we have control over and these things cause damage. The most disturbing part is how close it is applied to water sources.

Tracy Gegan, 659 W. Dahlia St, noted it is a tough task to appease all residents. She stated as a parent the use of herbicides (2,4D and Roundup) are of tremendous concern. Children and pets are particularly vulnerable to the effects of these herbicides and absorb more than adults. She urges banning herbicides in all parks and adopting nontoxic turf management plans.

Allison Johanson, chair of the Sustainability Board, stated the board supports a sustainable approach and moving away from herbicides should be a priority.

Betty Solek, 1101 N Franklin Ave, stated the IWMP does not give enough attention to potential impacts on waterways and waterbodies. She noted examples of what she has seen in medians with contractors spraying from backpack sprayers which allow for overspray and drifting; the medians are designed to shed water into the storm sewers. She recommended redesigning of medians to reduce chemical impacts on the streams.

Angie Layton, 609 West Juniper Court, stated she lives by Heritage Park and sees the dandelions and then they are sprayed by the City. The City is not timing the eradication of the noxious weeks appropriately and not keeping up on what is needed.

Diana Gutowski, 1000 Arapahoe Cir, stated Glyphosate binds tightly to soils and can persist for months in the ground and traces turn up in food products. The City needs a marketing campaign so people know they are going to see dandelions and this is why. Managing expectations of residents is key but creating healthier parks is the goal.

Lauren Keliher, 477 W Harper St, noted the herbicides are effective at creating superweeds that cannot be killed by herbicides so it is not useful in the long term.

Matt Sandler, 990 Arapahoe Circle, stated the community should get out ahead of these issues. He understands people don’t want parks full of weeds but children use the parks

and they are affected. The City should identify the parks where the grass is most used by kids or have sections of parks where you know nothing is being sprayed.

Councilmember Dickinson noted the parks and open space staff are trying really hard to be responsible and meet needs. He stated the community is unified behind not using these chemicals but that will mean weeds. It is a choice between chemicals and effort/money. If it is money, that is where we should put additional resources.

Mayor Pro Tem Maloney stated the IWMP is solid and allows for policy options. We have to protect the playgrounds and areas people use. He agreed the weeds have to be addressed with proper timing. He supports reducing use now and moving towards a total ban. It is important to realize that there may be times some herbicide might be needed. We need to use methods that make sense and are not harmful to the community.

Councilmember Brown stated as a parent he would never use these chemicals in his lawn, so why subject others to these chemicals. He agrees the timing of the spraying is key. He would like the IWMP to have specific criteria to dictate when staff will use specific methods and we should use chemicals as a last resort. He supports a ban in parks if not citywide.

Councilmember Leh stated he is concerned about an outright ban as there might be some instances it is needed but we need to move toward weed control with little to no herbicide use. We should expand the number of parks currently piloting no use and we need a broad public education campaign.

Councilmember Fahey stated her job as a councilmember is the health and safety of residents and this is right at the top of this list for health. There is no evidence herbicides are the only way to control weeds. Just starting with Glyphosate and 2,4D would be taking a steps towards those goals. She wants a specific goal and specific time established.

Mayor Stolzmann stated for Open Space she is guided by the Charter which notes nontoxic remedies should be tried first. This is not an easy effort but it is necessary. She would like a specific list of chemicals we won't use in parks and open spaces and it should include 2,4 D, Glyphosate, and nicotinoids. She noted mechanical weed pulling is expensive and we will need to address the consequences of not spraying. It needs to be a community effort; it is not inexpensive or easy.

Councilmember Dickinson stated the Council needs to know what the expectations are. We have to say if this is important to us then invest in it; it is not a small task.

Mayor Stolzmann reviewed the staff direction asking it include a list of what resources are needed to eliminate the use of Glyphosate and 2, 4-D, continuing no use of nicotinoids, and stop using of organophosphates in parks, open space, and medians.

Mayor Pro Tem Maloney stated he would like recommendations on the timing as well.

City Manager Balser stated staff will come back with options for phasing, strategies, and implementation.

Councilmember Fahey noted the upcoming weed pull on Earth Day.

Councilmember Brown stated he is mindful that if implementation is starting this spring it may be hard to do given it is already almost March.

## ADVANCED AGENDA

Members reviewed the advanced agenda.

## ADJOURN

Members adjourned at 8:32 pm.

_____
Ashley Stolzmann, Mayor

_____
Meredyth Muth, City Clerk

City of Louisville
COLORADO • SINCE 1878

# City Council

## Meeting Minutes

**March 3, 2020**
**City Hall, Council Chambers**
**749 Main Street**
**7:00 PM**

**Call to Order** – Mayor Stolzmann called the meeting to order at 7:00 p.m.

**Roll Call** was taken and the following members were present:

***City Council:*** ***Mayor Ashley Stolzmann***
***Mayor Pro Tem Dennis Maloney***
***Councilmember Kyle Brown***
***Councilmember J. Caleb Dickinson***
***Councilmember Deborah Fahey***
***Councilmember Chris Leh***
***Councilmember Jeff Lipton***

***Staff Present:*** ***Heather Balser, City Manager***
***Megan Davis, Deputy City Manager***
***Nathan Mosely, Parks, Recreation, & Open Space Director***
***Kurt Kowar, Public Works Director***
***Rob Zuccaro, Planning & Building Safety Director***
***Megan Pierce, Economic Vitality Director***
***Emily Hogan, Assistant City Manager for Communications & Special Projects***
***Meredyth Muth, City Clerk***

***Others Present:*** ***Kathleen Kelly, City Attorney***

### PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

### APPROVAL OF AGENDA

Mayor Stolzmann called for changes to the agenda and hearing none she asked for a motion. Mayor Pro Tem Maloney moved to approve the agenda; seconded by Councilmember Brown. All in favor.

## PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA AND THE CONSENT AGENDA

Jerome Rifkin, 270 W Sycamore Lane, asked why the change so people can't access the open space, we paid for access so this is a loss of service. There was no notice this was happening; residents would like an explanation and know how they change this.

Erin Lindsey, 826 Trail Ride Dr, stated she is displeased with new gate rules; the gates have been there as long as she can remember. It seems unreasonable to change now.

Hilary Whiton, 814 Flatirons Ct, stated she purchased her house for access to the lake. She wants to know what the environmental impact is of these small social trails. She replaced the fence in the last few years and was told if she paid for it she could maintain the gates. Seems there are higher impact issues in open space that should be addressed.

Tasha Bond, 1841 Sweet Clover Lane, would like to get more information as to why this has happened. There was little outreach to residents. This access has been there for years and if imposing new rules there needs to better communication. This affects children who need more outdoor time; access is key to getting kids outside. She doesn't understand why this is beneficial.

Pam Wanek 2251 W 154th Pl. Broomfield, stated she is an expert on prairie dogs and supports the protection of prairie dogs. Local governments can affect decisions and have the primary authority to protect wildlife. She submitted two documents to help educate the Council on prairie dogs.

Stephanie Rowe, 361 West St, noted she submitted a proposal to Council on prairie dog management. The proposal came from an ad hoc group looking at options for prairie dog management plans. Lafayette has an excellent plan and approach and the group recommends Louisville adopt a similar plan. She asked Council to review the plan and give it consideration. She also asked the Council to refrain from approving any new development projects that affect prairie dogs until a plan is in place.

Linda Gallegos, 125 Cherry Wood Ln, shared research on prairie dogs and how they affect the greater wildlife community and ecosystem. She is hoping to protect the interests of prairie dogs and land owners.

Cindy Bedell, 662 W. Willow St, supports the City adopting a prairie dog management plan to help save habitat and also supports a moratorium on species removal until a plan is in place.

Martin Ogle, 322 East Raintree Court, stated his background in wildlife biology shows him there is a need to adopt a humane plan and recognize the value of the keystone species and how it affects our land use policies. He urged the Council to defer new development until a plan is adopted.

Tamar Krantz, 691 West St, stated the ad hoc prairie dog group attended the Sustainability Advisory Board (SAB) meeting and the SAB supports adoption of this plan. She read a statement from the SAB urging adoption of the proposed plan.

Taylor Jones, 1450 Albion Street, Denver, representative of Wild Earth Guardians, stated the group supports the City adopting a management plan to prevent conflict, reduce uncertainty, and preserve wildlife.

Charlie Ealy, 822 Trail Ridge Drive, stated the Councilmembers ran supporting green principals and noted if people can't access open space from their yards it would generate many more trips by car.

Christopher Lindsey, 826 Trail Ridge Drive, stated he is allowed a ten-foot mowed strip between his home and open space and asked how he can maintain that without a gate to access that area to mow. It is a ½ mile walk around and would then cross more open space to get there.

Kendall Myers, 362 S Jefferson Avenue, stated his disappointment how this gate issue has been handled and wanted to know what is the emergency; how can we maintain fire breaks if we can't access through our back yards. Taking away gate access is ridiculous.

Paul Stockebrand, 824 Trail Ridge, stated they have a gate that kids use to access the rec center, the skate park, the tennis courts, and other areas. Losing the gates is losing part of the community. He added the gate is an investment in my home.

Kendra Stockebrand, 824 Trail Ridge, noted the gate in their neighborhood is heavily used but they have no desire to degrade the open space and work to avoid that. She noted many other social trails in open space aren't being addressed.

Shaun Howe, 845 Trail Ridge Drive, noted the gates were in place when they purchased their house. He stated areas of the neighborhood are more green belt than open space with no wildlife there. He supports careful consideration before implementing this and noted this is not in the spirit of the town.

Kelda Neely 198 S. Cleveland Ave, pooled time with four other members in the audience. She stated they bought their homes here to access open space; not having gates discourages people from using the space. They are staunch supporters of open space taxes and understand the need to protect open space, but these access points are not in actual open space but in a mowed drainage. The differences between open spaces, easements, and green ways should be noted.

Jeff Fantalis, 818 Trail Ridge Dr, president of HOA, pooled his time with one other member in the audience. He stated 70 houses have a mile of fence that has had 30 plus gates since 1992. He never got a good explanation as to why the new rules. Twice he

was told the gates would not be a problem and then later was denied a permit. The part of the fence that opens up to HOA property must be allowed. He requested the 90-day stay be removed and the permit approved.

Chris Hall 998 West Alder, asked the Council not to enact the rule.

Clark Hamilton, 7712 Spring Drive, Boulder County, stated a community trail from their neighborhood ends up on open space. 20-40 people use the trail every day and have done so for 20 years. The access has no gate or fence and they want it maintained.

Patti Bowen, 1214 West Pine Court, speaking for neighbors in the Enclave neighborhood, stated they got a letter from the City over a year ago about degradation in the open space and they reseed the area and were told the trail was fine with their work. They want to know the rationale behind the change as the gates have been there for over 25 years. She stated people violate dog rules and no one seems to be enforcing that and it has a much greater impact on the land.

Bridger Penttila, 342 Jefferson Avenue, stated this issue wasn't handled well. She asked what was the purpose of the rule, and what is the city trying to accomplish.

Kathy Small, 2170 Dogwood Circle, stated she adopted the north open space through the City's program and works to maintain the space. She stated the reasons listed for changing the rules don't seem appropriate. She noted social trails from private property are the exception not the rule and a blanket rule for everyone is not appropriate.

Dale Johnson, 812 Pikes Peak Court, bought his house in 1992 with an existing gate which is used by kids to get to school. The property owners paid for the fence and the City allowed gates but are now being told they can't use them to maintain the weeds or the fence. Open Space should have informed us of the proposed changes.

Rich Kithil, Bridgefield Neighborhood, stated the City should get an environmental impact study before imposing this.

Terrance Keane, 2437 North Franklin Avenue, stated the rule doesn't affect him or his property but he feels this is overly broad and unnecessarily harsh. The City should allow reasonable access. He asked Council to stay this rule and have a public process with stakeholder input.

Julia Knearl, 946 West Alder, stated the code provision used to enact this administrative regulation does not align with how it was implemented and is not compliant with code. This is not an emergent situation and there needs to be a public process.

Kristopher Karnauskas, 1022 Alder St, stated that he and his family use the gate to access the open space on the way to school. The access to open space was a big factor in the home they chose. He asked Council to rescind the rule.

Richard Ross, 2351 McKinley Ave, stated the Municipal Court told him he has the right to mow the 10 feet behind his house to help stop fires. He mows the weeds for safety and needs the access.

Chris Pritchard, 1125 West Enclave Circle, asked Council to review the matter. He feels this is overreach by the parks director. He added it is inconsistent and wasn't neighborly.

Sonali Marlin, 847 Trail Ridge Drive, stated this was handled poorly without public input. She has had a gate for 15 years, removing access adds over half a mile to access trails and open space. She would like her new fence installed before spring.

Todd Nelson, 310 West Sycamore Lane, bought his house in 2005 with the gate as the biggest selling point. Other homes list this as a selling point. He has used it for 15 years and last year worked with the ranger to seed the social trail and followed staff direction to use different paths. He stated the reasons for the change were not well thought out.

Brett Duryea, 107 Aline St, supported ending the administrative rule. He stated closing the gates impacts kids' access to school and impacts aging residents.

Kelly Bartell, 563 West Cedar Place, opposes the ruling. She noted neighbors could not maintain the area behind their homes without this access. This needs more study. She also noted her support for the proposed prairie dog management plan.

Marnie Rundiks, 204 South Cleveland Avenue, agreed with earlier speakers. She wants kids to grow up on open space; the open space is an important part of the community.

Windy Cook, 1127 West Enclave Circle, stated she loves getting kids out on open space. She was told last year to reseed and preserve the area and she complied. The City needs to collaborate on a better process.

Kerry Salazar, 384 Jefferson, stated the communication was done poorly and was not transparent. She asked how this will be enforced; there are other ways to handle this.

Ben Hogan, 236 W Sycamore Ln, stated he hoped Council was listening to these comments. He feels these are surprise regulations.

Will Deaver, 519 Eisenhower Drive, stated he supported many tax increases for open space and bought his home on the North Open Space to see and interact with nature. Without using the gate it would add over a mile to go around. He supports repeal of the regulation.

Thomas DeJong, 2247 Cliffrose Lane, stated this was a poor process with no public input. Council should immediately rescind the regulations.

## APPROVAL OF THE CONSENT AGENDA

Mayor Stolzmann called for changes to the consent agenda. Hearing none she asked for a motion to approve the consent agenda. Councilmember Fahey moved to approve the agenda; seconded by Mayor Pro Tem Maloney. All in favor.

- **A.** ***Approval of Bills***
- **B.** ***Approval of Minutes: February 11, 2020; February 18, 2020***
- **C.** ***Approval of Resolution No. 16, Series 2020 – A Resolution Approving a First Amendment to Business Assistance Agreement with Duda, Inc. for an Economic Development Project in the City of Louisville***
- **D.** ***Approve Resolution No. 17, Series 2020 – A Resolution Approving an Agreement with Arch 11, Inc. for Louisville Historical Museum Expansion Design Services***
- **E.** ***Appointment of City Council Participants for the 2020 International Council of Shopping Centers Conference***
- **F.** ***Award Purchase Agreement to E-Z-GO for Golf Cart Fleet Replacement***
- **G.** ***Approval of Purchase of Qwiksalt from Compass Mineral***
- **H.** ***Approval of 2020 Annual Fuel Purchase***

Lipton moved to reorder the agenda with the City Manager's report next; seconded by Councilmember Leh. All in favor.

## CITY MANAGER'S REPORT

City Manager Balser stated as referenced this evening, the Parks, Recreation and Open Space Department put in place a temporary administrative rule recently to start a formal process for staff to bring forward potential updates to open space and building codes to address private access and fences on properties that abut open spaces in Louisville. This was a result of a recent request to add additional gates abutting open space that staff believes is inconsistent with the current municipal code regarding protection of open space. Staff is following the process outlined in the city code.

At this time, no permanent changes have been enacted. The regulation is in effect for 90 days, during which time staff will bring forward potential changes to the Municipal Code for consideration by Planning Commission and City Council. This will include discussion on "grandfather" clauses related to existing gates. The tentative date for Planning Commission review is April 9th and City Council review is April 21st for 1st reading and May 19th for the public hearing. This topic will also be discussed by the Open Space Advisory Board on March 11 so they too can provide a recommendation on any potential code changes. All meetings are open to the public and residents are encouraged to share their opinions related to this important topic.

City Manager Balser reviewed the City's response to the covid-19 virus.

City Manager Balser stated staff has been contacted regarding drone activity in the area. It is being done by a private company for a mapping project. There is more information about the FAA's regulations on the City's website.

She noted she attended the City of Boulder Council meeting to honor Jane Brautigam as she was awarded City Manager of the Year award from CCCMA.

## COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Councilmember Lipton stated he is embarrassed by how this has been managed and this is not the way we do things in Louisville. He would like to see the decision process move faster on this item and believes this has put the citizens in a very difficult position.

Mayor Stolzmann noted this is not an agenda item this evening and Council cannot have deliberative discussion as it has not been noticed for full public participation.

Councilmember Dickinson noted this is the start of the process and encouraged people to continue to participate in the process.

Mayor Stolzmann noted there is a lunch and learn on Thursday at the Historical Museum. Friday is first Friday Art walk.

Councilmember Leh thanked people for speaking and told people Council is listening. He also thanked Travis Ramos and his family for their efforts to save the caboose.

Councilmember Brown and Councilmember Fahey also thanked people for participating in this process.

## REGULAR BUSINESS

### RESOLUTION NO. 18, SERIES 2020 – A RESOLUTION APPROVING A BUSINESS ASSISTANT AGREEMENT WITH FORGE NANO, INC. FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE

Director Pierce stated Forge Nano, Inc. is an industry leader in atomic layer disposition (ALD). They have been at their Louisville location approximately five years. In February, the company merged with Broomfield-based ALD NanoSolutions, Inc. They currently occupy space at 1172 W Century Drive and they propose to add 19,000 square feet at the site. Forge Nano employs approximately 30 people; they would add 12 this year and hope to grow to 70 employees total over the next five years.

She reviewed the Business Assistance criteria noting this application retains existing jobs within Louisville; utilizes an existing building; brings new jobs to the City; represents job

diversity in industry sectors and is part of a growing industry; and brings added value to the City through new tax revenue.

She reviewed the proposed assistance of a 50% rebate of building permit fees and construction use tax for tenant improvements and a 40% rebate of new consumer use tax over a 5-year period capped at $150,000. The building improvements must be complete by September 30, 2020 and the business must remain in Louisville for seven years. The total impact over five years is estimated at $163,331.57.

Public Comments - None

Mayor Stolzmann stated this is a company we would like to keep in Louisville.

Mayor Pro Tem Maloney moved, Councilmember Lipton second.

Voice vote: all in favor.

**RESOLUTION NO. 19, SERIES 2020 – A RESOLUTION APPROVING A BUSINESS ASSISTANT AGREEMENT WITH CORVUS NIDUS, LLC (DBA THE ROSE AND RAVEN) FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE**

Director Pierce stated Corvus Nidus, LLC, dba The Rose and Raven, is a concept for an artisanal cidery production, restaurant, and food truck park. The Company is performing due diligence but has not closed a deal on the property and are also evaluating locations in Lafayette, Erie, and Aurora. They are looking at 511 East South Boulder Road which has been vacant since 2015 and they would either significantly renovate or reconstruct on the existing site, with 8,000 SF for cidery production, food, food truck park, and have potential 3,000 SF for office. They project estimates retail sales at $9.9M over first five years (not including food truck sales) and plans to hire 45-50 employees and grow to 65-70 employees over five years.

She reviewed the Business Assistance criteria noting this application brings high quality development; draws new customers; creates new sales tax; utilizes an existing building; brings new basic jobs to the City; represents job diversity; and brings a new retail outlet.

She reviewed the proposed assistance of 50% rebate of building permit fees and construction use tax capped at $80,000 and a 50% rebate of sales tax capped at $160,000. The business must remain in operation for 10 years or a portion of rebates must be repaid and construction must be complete by October 31, 2021.

Public Comments – None

Joshua Martinsons stated the company would like to be in Louisville and feels it would invigorate the community.

Councilmember Lipton stated he supports this but asked what recourse the City has if it does not stay the required time. Attorney Kelly stated if the City can't recoup payments voluntarily it would be a contract claim.

Councilmember Lipton moved to approve, Mayor Pro Tem Maloney seconded.

Mayor Stolzmann stated this is a very exciting project and it is a good match for the community.

Councilmember Dickinson asked if the business plan has been vetted. Director Pierce stated there have been meetings reviewing the business plan; there are some details to be worked out.

Voice vote: All in favor.

**DISCUSSION/DIRECTION/ACTION – 2020 COMMUNITY SURVEY**

Assistant City Manager Hogan stated the City recently approved a contract with National Research Center (NRC) to conduct the 2020 Community Survey. The City typically conducts the survey every four years. The survey provides comprehensive feedback on the City's delivery of services and programs and solicits feedback from residents on a few policy-related matters.

In order to present the survey results in June prior to City Council's budget retreat in July, the survey needs to be approved in early March. Once finalized, NRC will print the survey materials and mail to respondents in March, collect data in April, analyze results and compile the final report in May and present findings to City Council on June 16th.

Staff recommends approval of the survey.

Public Comments – None.

Councilmember Lipton suggested the survey include a question about street safety. Members agreed to that addition.

Councilmember Dickinson asked why there is no neutral answer on the scale. Jade Arocha, NRC, stated they recommend not including that option so that people can really answer truly or answer don't know. It can also complicate the interpretation of survey results and makes the results simpler and more actionable.

Members discussed and amended wording on various questions; removed some questions, and discussed questions to add.

Councilmember Brown would like a question added about a tobacco tax.

Mayor Stolzmann stated she doesn't feel a question about a tobacco tax is needed as she feels confident people will support it on the ballot. Mayor Pro Tem Maloney and Councilmember Brown agreed.

Councilmember Fahey would like a specific sustainability question with prioritized answers. Members agreed and staff will create a question based on the focus areas in the sustainability action plan.

Given the late hour, members decided to continue some items on the agenda to a later date.

Mayor Stolzmann made a motion to move the Transportation Master Plan discussion and the executive session to March 31 at 7 pm; Mayor Pro Tem Maloney seconded.

Voice vote: all in favor.

## DISCUSSION/DIRECTION – TRANSPORTATION MASTER PLAN UPDATE - 2019-2020 FUNDING AND PROPOSED CIP PROJECTS

Continued to March 31.

## AWARD CONTRACT FOR 2020 CONCRETE REPLACEMENT PROGRAM

Director Kowar stated the concrete bid currently includes all the streets in the 2020 plan. The concrete costs and paving estimates came in roughly $2M above budget. He noted there are five packages for Council to choose from. The goal for the pavement program is to get the streets up to a 75 score. Staff recommends deferring Hoover and Lafayette to future years. Director Kowar reviewed some of the concrete options and what their costs are.

Public Comments

Jay Keany, 1488 Wilson Place, encouraged Council not to do anything in downtown that would eliminate parking which is much needed. He added that Council should fully vet the projects in the Transportation Master Plan before approving them.

Mayor Pro Tem Maloney noted there is about $10M in the fund balance above the required reserves; can some of that be used for this. City Manager Balser stated some of that could be used if Council so decides.

Mayor Pro Tem Maloney supports finding the $2M and to not cut out anything.

Mayor Stolzmann stated she supports the paving, but thinks the plan to widen some sections of sidewalk to eight feet could be removed.

Councilmember Brown agreed with Mayor Pro Tem Maloney that we should find the money for the entire project.

Councilmember Dickinson agreed with Mayor Stolzmann that sidewalk widening could be removed.

Councilmember Lipton stated he is concerned to dip into reserves for this without more contexts and forecasting.

Mayor Stolzmann moved to approve the contract with removing the widening of the sidewalks on Pine Street and leaving the rest of the proposal intact. Councilmember Brown seconded the motion.

Voice vote: all in favor.

**RESOLUTION NO. 20, SERIES 2020 – A RESOLUTION SETTING CERTAIN WATER, WASTEWATER, STORMWATER AND OTHER FEES, RATES, AND CHARGES FOR THE CITY OF LOUISVILLE, COLORADO**

Director Kowar reviewed the proposed rate increases: no rate increase of water; 3.5% increase for wastewater; and 14% increase in stormwater for an overall increase of 2.3%.

Councilmember Lipton noted what is being proposed is consistent with the policy to smooth out increases over time.

Mayor Stolzmann noted that if this is approved tonight information will go to residents so they understand what to expect this summer. While the average increase is small over the course of the year, most of it hits in the high usage summer months.

Councilmember Lipton moved to approve Res. 20; Councilmember Leh second.

**Vote:** Motion carried by unanimous roll call vote.

## EXECUTIVE SESSION

**REAL PROPERTY ACQUISITIONS AND DISPOSITIONS**
(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

Continued to March 31.

## CITY ATTORNEY'S REPORT

None.

## COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

ECONOMIC VITALITY COMMITTEE – There will be a March 10 DBA breakfast.

FINANCE COMMITTEE

LEGAL REVIEW COMMITTEE – The Committee is interviewing candidates for judge on March 9.

UTILITY COMMITTEE

COLORADO COMMUNITIES FOR CLIMATE ACTION

COMMUTING SOLUTIONS

CONSORTIUM OF CITIES

DOWNTOWN BUSINESS ASSOCIATION STREET FAIRE

DENVER REGIONAL COUNCIL OF GOVERNMENTS

JOINT INTEREST COMMITTEES (SUPERIOR & LAFAYETTE)

MAYORS & COMMISSIONERS COALITION

METRO MAYORS CAUCUS

REVITALIZATION COMMISSION

XCEL ENERGY FUTURES

ADVANCED AGENDA

## ADJOURN

Members adjourned at 11:26 pm.

_____
Ashley Stolzmann, Mayor

_____
Meredyth Muth, City Clerk

**SUBJECT:** **AWARD OF CONTRACT FOR CONSTRUCTION SERVICES FOR HERITAGE PARK RESTROOM RENOVATION AND CLEO MUDROCK DUGOUT ROOFING PROJECT**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **NATHAN MOSELY, DIRECTOR OF PARKS, RECREATION, & OPEN SPACE**
**ALLAN GILL, PARKS PROJECT MANAGER**

**SUMMARY:**
In 2015, staff worked with Allred & Associates (Architects) to prepare ADA compliant architectural plans to replace the existing restroom at Heritage Park and construct a new restroom at the Arboretum. The original construction budget for Heritage Park was $187,090 and $199,500 for the Arboretum.

In 2016, the project went out to bid, seven bids were submitted for each restroom ranging in cost from a low of $442,283 to a high of $713,908 for the restroom at Heritage Park and bids ranged from a low of $481,684 to a high of $725,218 for the restroom at the Arboretum. Thus bid prices were two to three times higher than the available budget. At that time, a decision was made to combine both budgets and construct a single prefabricated restroom at the Arboretum, which is now completed, and in operation.

The existing restroom building at Heritage Park is constructed primarily of concrete and concrete masonry blocks (CMU), and as a result the counter tops and other amenities are not adjustable and do not meet ADA requirements.

In 2019, staff worked with Alliance Consulting on a structural analysis of the restroom at Heritage Park due to the presence of significant cracks in the walls. The structural report concluded that the building was structurally sound and could be renovated rather than demolished. Staff then worked with Lodestone Design Group to prepare architectural plans to renovate the existing building. As this is a renovation project, staff have strived to meet ADA requirements as best as possible at the advice of the Chief Building Official. The renovated restroom will be plumbed, heated and operate all year long. The drinking fountain will be ADA accessible and freeze resistant as well. The architect presented three exterior options for the restroom and staff is recommending option 2 as it is a combination of board and batten siding on top with cultured stone below. This option provides consistency with the restroom constructed at the Arboretum.

The City received sealed bids from four contractors; bids included a cost for three different exterior elevation treatments and a cost for construction of the Dugout roof at Cleo Mudrock Park:

| | Base Elev. | Option 1 | Option 2 | Cleo Mudrock |
|---|---|---|---|---|
| Landmark Builders | $164,002.00 | $162,744.00 | $158,968.00 | $49,407.00 |
| Growling Bear Company | $171,470.00 | $168,437.00 | $167,770.00 | No Break Out |
| Performance Construction | $122,956.56 | $117,026.09 | $116,851.85 | $27,318.56 |
| Barba & Sons | $142,197.00 | $134,635.00 | $138,812.00 | $53,668.00 |

**FISCAL IMPACT:**
This project will be funded entirely out of the Capital Projects Fund and with the City's bi-annual budget the project had funding for $28,000 in 2019 for design and $200,000 for construction in 2020.

**PROGRAM/SUB-PROGRAM IMPACT:**
The recommended contract supports objectives of the Parks Program by providing facilities that are enjoyable to visit. Replacing / improving facilities and equipment improves safety, helps to maintain levels of service for residents and helps the City meet ADA requirements

**RECOMMENDATION:**
Staff recommends City Council award a contract for Construction Services for the Heritage Park Restroom Renovation and Cleo Mudrock Dugout Roofing Project to Performance Construction for $144,170.41.Staff also recommends approving a contingency amount of 15% or $21,626.00 for a total project cost of $165,796.41.

**ATTACHMENT(S):**
1. Contract

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | **Financial Stewardship & Asset Management** | ☒ | **Reliable Core Services** |
| ☐ | **Vibrant Economic Climate** | ☒ | **Quality Programs & Amenities** |
| ☐ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

**INDEPENDENT CONTRACTOR AGREEMENT**
**BY AND BETWEEN THE CITY OF LOUISVILLE**
**AND PERMANCE CONSTRUCTION**
**FOR CONSTRUCTION SERVICES**

## 1.0 PARTIES

This INDEPENDENT CONTRACTOR AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 20__ (the "Effective Date"), by and between the **City of Louisville**, a Colorado home rule municipal corporation, hereinafter referred to as the "City", and _____, [Name of Contractor] a _____[State of Formation and Type of Entity], hereinafter referred to as the "Contractor".

## 2.0 RECITALS AND PURPOSE

2.1 The City desires to engage the Contractor for the purpose of providing Construction Services as further set forth in the Contractor's Scope of Services (which services are hereinafter referred to as the "Services").

2.2 The Contractor represents that it has the special expertise, qualifications and background necessary to complete the Services.

## 3.0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference. Contractor shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the City.

## 4.0 COMPENSATION

4.1 The City shall pay the Contractor for Services under this Agreement a total not to exceed the amounts set forth in Exhibit "A" attached hereto and incorporated herein by this reference. For Services compensated at hourly or per unit rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in Exhibit A. The City shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.), unless such expenses are (1) clearly set forth in the Scope of Services, and (2) necessary for performance of the Services ("Pre-Approved Expenses"). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside Contractor fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No City employee has the authority to bind the City with regard to any payment for any Services which exceeds the amount payable under the terms of this Agreement.

4.2 The Contractor shall submit monthly an invoice to the City for Services rendered and a detailed expense report for Pre-Approved Expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the City. The Contractor shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

**5.0 PROJECT REPRESENTATION**

5.1 The City designates Allan Gill as the responsible City staff to provide direction to the Contractor during the conduct of the Services. The Contractor shall comply with the directions given by Allan Gill and such person's designees.

5.2 The Contractor designates _____ as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly _____, and such replacement require the City or the Contractor to undertake additional reevaluations, coordination, orientations, etc., the Contractor shall be fully responsible for all such additional costs and services.

**6.0 TERM**

6.1 The term of this Agreement shall be from the Effective Date to _____, 20___, unless sooner terminated pursuant to Section 13, below. The Contractor's Services under this Agreement shall commence on [(the Effective Date) or (on another date desired by the City, after the Effective Date)] and Contractor shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.

6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the City under this Agreement are subject to annual budgeting and appropriation by the Louisville City Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

**7.0 INSURANCE**

7.1 The Contractor agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the City.

All coverages shall be continuously maintained from the date of commencement of Services hereunder. The required coverages are:

7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.

7.1.2 General Liability insurance with minimum combined single limits of $1,000,000 each occurrence and $2,000,000 aggregate. The policy shall include the City of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the City of Louisville, its officers and its employees, and shall contain a severability of interests provision.

7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than $400,000 per person in any one occurrence and $1,000,000 for two or more persons in any one occurrence, and auto property damage insurance of at least $50,000 per occurrence, with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the Services. If the Contractor has no owned automobiles, the requirements of this paragraph shall be met by each officer or employee of the Contractor providing services to the City of Louisville under this contract.

7.2 The Contractor's general liability insurance and automobile liability and physical damage insurance shall be endorsed to include the City, and its elected and appointed officers and employees, as additional insureds, unless the City in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Contractor. Such policies shall contain a severability of interests provision. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

7.3 Certificates of insurance shall be provided by the Contractor as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. No required coverage shall be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

7.4 Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

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

## 8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the Services hereunder, if such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Contractor shall further bear all other costs and expenses incurred by the City or Contractor and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Contractor. The City shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

## 9.0 QUALITY OF WORK

Contractor's Services shall be performed in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the City.

## 10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Contractor is an independent contractor and not the agent, employee or servant of the City, and that:

10.1. **CONTRACTOR SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSE RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, PAYMENT OF STATE, FEDERAL AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKERS' COMPENSATION AND SELF-EMPLOYMENT TAXES. NO STATE, FEDERAL OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE CITY.**

10.2. **CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS EXCEPT AS MAY BE PROVIDED BY THE INDEPENDENT CONTRACTOR NOR TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THE INDEPENDENT CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY.**

10.3. Contractor does not have the authority to act for the City, or to bind the City in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the City.

10.4. Contractor has and retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder.

10.5. The City will not provide training or instruction to Contractor or any of its employees regarding the performance of the Services hereunder.

10.6. Neither the Contractor nor any of its officers or employees will receive benefits of any type from the City.

10.7. Contractor represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.

10.8. All Services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.

10.9. Contractor will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

**11.0 ASSIGNMENT**

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder without the City's prior written consent.

**12.0 DEFAULT**

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

**13.0 TERMINATION**

13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

13.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the Services rendered to the date of termination, not to exceed a pro-rated daily rate, for the Services rendered to the date of termination, and upon such payment, all obligations of the City to the Contractor under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

**14.0 INSPECTION AND AUDIT**

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

## 15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the City in performance of the Services are and shall remain the sole and exclusive property of the City. All such materials shall be promptly provided to the City upon request therefor and at the time of termination of this Agreement, without further charge or expense to the City and in hardcopy or an electronic format acceptable to the City, or both, as the City shall determine. Contractor shall not provide copies of any such material to any other party without the prior written consent of the City. Contractor shall not use or disclose confidential information of the City for purposes unrelated to performance of this Agreement without the City's written consent.

## 16.0 ENFORCEMENT

16.1 In the event that suit is brought upon this Agreement to enforce its terms, the parties shall each bear and be responsible for their own attorneys' fees and court costs.

16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the courts of Boulder County or the federal district court for the District of Colorado, and in no other court. [If out of state contractor: Contractor hereby waives its right to challenge the personal jurisdiction of the courts of Boulder County and the federal district court for the District of Colorado over it.] Colorado law shall apply to the construction and enforcement of this Agreement.

## 17.0 COMPLIANCE WITH LAWS; WORK BY ILLEGAL ALIENS PROHIBITED

17.1 Contractor shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

17.2 Exhibit B, the "City of Louisville Public Services Contract Addendum-Prohibition Against Employing Illegal Aliens", is attached hereto and incorporated herein by reference. There is also attached hereto a copy of Contractor's Pre-Contract Certification which Contractor has executed and delivered to the City prior to Contractor's execution of this Agreement.

## 18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

## 19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by email transmission, addressed to the party for whom it is intended at the following address:

If to the City:

City of Louisville
Attn: Allan Gill
749 Main Street
Louisville, CO 80027
e-mail: AllanG@louisvilleco.gov

If to the Contractor:

_____
_____
_____
_____

Except for notices by email transmission, any notice required or permitted under this Agreement shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail. Notices by email transmission shall be effective on transmission, so long as no message of error or non-receipt is received by the party giving notice. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

**20.0 EQUAL OPPORTUNITY EMPLOYER**

a) Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, veteran status, or any other applicable status protected by state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status set forth in the preceding sentence. 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

b) Contractor shall be in compliance with the applicable provisions of the American with Disabilities Act as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

**21.0 NO THIRD PARTY BENEFICIARIES**

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties

that any person other than City or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**22.0 SUBCONTRACTORS**

Contractor may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Contractor will submit any proposed subcontractor and the description of its services to the City for approval. The City will not work directly with subcontractors.

**23.0 AUTHORITY TO BIND**

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

In witness whereof, the parties have executed this Agreement to be effective as of the day and year first above written.

CITY OF LOUISVILLE

By:_____
Mayor

Attest:_____
City Clerk

CONTRACTOR:
_____

By:_____

Title:_____

**Exhibit A – Scope of Services**

**[See Following Page(s)]**

**Exhibit B**

**City of Louisville Public Services Contract Addendum**
**Prohibition Against Employing Illegal Aliens**

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

a. Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, City may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City.

**Pre-Contract Certification in Compliance with C.R.S. Section 8-17.5-102(1)**

The undersigned hereby certifies as follows:

That at the time of providing this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform under the public contract for services.

Proposer:
_____

By_____

Title:_____

_____
Date

**SUBJECT:** **APPROVAL OF SECOND AMENDMENT TO STREET FAIRE LICENSE AGREEMENT**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **KATIE ZOSS, CULTURAL ARTS/SPECIAL EVENTS**

**SUMMARY:**
The Street Faire Committee of the Downtown Business Association has proposed an amendment to the Street Faire license agreement with the City of Louisville. The amendment updates current terms by which the City will provide additional support of $25,000 to assist with bringing in two “more well-known headliner bands” during the 2020 Street Faire.

The attached proposed Second Amendment to the current license agreement changes the dates during which the “more well-known headliner bands” must be scheduled from requiring both be scheduled in July and August to requiring “at least one such night” be scheduled in July and August. This gives the Downtown Business Association the option to schedule one of those bands in June.

**FISCAL IMPACT:**
None

**PROGRAM/SUB-PROGRAM IMPACT:**
The funding request and associated amendments to the license agreement meet the goals and objectives of the Cultural Arts and Special Events Sub-Program. Specifically, increasing the quality of summer music programming in Louisville for residents and visitors.

**RECOMMENDATION:**
Staff recommends approval of the amendment to the License Agreement.

**ATTACHMENT(S):**
1. Second Amendment to License Agreement
2. Original License Agreement
3. First Amendment to License Agreement

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | Financial Stewardship & Asset Management | ☐ | Reliable Core Services |
| ☐ | Vibrant Economic Climate | ☒ | Quality Programs & Amenities |
| ☒ | Engaged Community | ☐ | Healthy Workforce |
| ☐ | Supportive Technology | ☐ | Collaborative Regional Partner |

**SECOND AMENDMENT TO LICENSE AGREEMENT**

This Amendment ("Amendment") is made and entered into this 17th day of March, 2020 by and between the City of Louisville ("City") and the Downtown Business Association of Louisville ("DBA").

WHEREAS, the City and the DBA entered into a "License, Improvement, and Assistance Agreement (2018, 2019, and 2020 Louisville Street Faire)" and a "First Amendment to License Agreement" and desire to amend the same as provided herein.

NOW, THEREFORE, for valuable consideration, the City and DBA agree as follows:

1. Subsection 23.F(a), added by the First Amendment, is hereby amended by:

   (i) Adding the words "including at least one such night" after the words "Street Faire".

CITY OF LOUISVILLE, COLORADO

By:_____
Ashley Stolzmann, Mayor

Attest:

_____
Meredyth Muth, City Clerk

DOWNTOWN BUSINESS ASSOCIATION OF LOUISVILLE

By:_____
President

**LICENSE, IMPROVEMENT AND ASSISTANCE AGREEMENT**
**(2018, 2019, and 2020 Louisville Street Faire)**

**THIS LICENSE, IMPROVEMENT AND ASSISTANCE AGREEMENT** (hereinafter "Agreement") is made and entered into this 19th day of December 2017, by and between the City of Louisville, Colorado, a municipal corporation (hereinafter "City") and the Downtown Business Association of Louisville, Inc., a Colorado nonprofit corporation (hereinafter "DBA").

WHEREAS, the City is the owner of certain real property located at 824 Front Street, Louisville, Colorado, and adjoining rights-of-way and parking areas, as legally described on Exhibit A and depicted on Exhibit B, attached hereto and incorporated herein by reference; and

WHEREAS, the DBA desires to occupy such property from the City on a non-exclusive basis for conduct of the Louisville Street Faire; and

WHEREAS, the City is willing to grant the DBA a revocable license to use and occupy such property on a non-exclusive basis, upon the other terms and conditions of this Agreement; and

WHEREAS, the City and DBA also desire to set forth mutual agreements regarding the City's provision of financial and service assistance for operation of the 2018, 2019, and 2020 Louisville Street Faire Seasons.

NOW, THEREFORE, the City and DBA agree as follows:

1. Licensed Premises. The City hereby grants to the DBA a non-exclusive and revocable license to use and occupy that certain real property located at 824 Front Street, Louisville, Colorado, together with portions of adjoining rights-of-way and parking areas, as legally described on Exhibit A and depicted on Exhibit B, , together with improvements thereon (hereinafter the "Licensed Premises"). The DBA may use and occupy the Licensed Premises during the "DBA Exclusive Use Times" designated pursuant to this Agreement.

2. Term. This Agreement shall continue until terminated as provided herein or by written agreement of the parties.

3. Exclusive Use Periods. A. For the year 2018, the DBA shall have exclusive use of the Licensed Premises for conduct of the Downtown Louisville Street Faire ("Street Faire") on the dates set forth on Exhibit C, attached hereto and incorporated herein by reference. For 2019 and 2020, by January 31 of each such year, the DBA and the City shall designate by mutual written addendum to this Agreement the DBA exclusive use dates and times for that year. Such addendum shall be executed by the City Manager and the DBA and attached to this Agreement. If the parties are unable to reach mutual agreement by January 31 on that year's dates and times

of DBA use, then the City at its option may terminate this Agreement or set such dates and times as it determines, either action to be by written notice given to the DBA. There shall be no more than 8 event dates each year in 2019 and 2020 unless otherwise agreed in the annual addendum. The designated periods of the DBA's exclusive use shall be referred to in this Agreement as the "DBA Exclusive Use Times".

B. The DBA's use and occupancy of the Licensed Premises shall be limited to the DBA Exclusive Use Times designated pursuant to this Agreement. Except for the DBA Exclusive Use Times, the City shall have the right to occupy or use all portions of the Licensed Premises for any purpose of the City, including but not limited to renting or licensing the Licensed Premises to other groups for performances or events. Any such rental or license by the City to third parties shall not include any of the DBA's personal property stored on the Licensed Premises.

C. Notwithstanding anything in this Agreement to the contrary, the mutual designation by the parties of any DBA Exclusive Use Times shall not in any way limit or impair, or be construed to limit or impair, the City's rights to terminate this Agreement for breach or for convenience as set forth in Sections 20 and 21 of this Agreement.

D. The DBA agrees that it does not have or claim, and shall not at any time in the future have or claim, any ownership interest or estate in the Licensed Premises, or any other interest in real property included in the Licensed Premises, by virtue of this Agreement or by virtue of Licensee's occupancy or use of the Licensed Premises. The permission granted to the DBA to use the Licensed Premises is a revocable license and not a leasehold interest or any other estate in the property.

4. Purposes. The Licensed Premises may be occupied and used by the DBA pursuant to this Agreement solely for the following purposes:

A. Construction, installation, maintenance, operation, repair and replacement of site improvements for conduct of the Street Faire, pursuant to the provisions of this Agreement;

B. Conduct of the Street Faire during the DBA Exclusive Use Times, which consists of musical performances, food vending, arts and crafts booths, service and consumption of alcohol beverages as that term is defined in C.R.S. §12-47-103, and similar festival activities. The Street Faire shall be conducted subject to all terms and conditions of this Agreement, and in accordance with the following standards and limitations:

(1) Amplified sound shall not be permitted beyond 10:00 p.m.
(2) No Street Faire activities shall extend beyond 10:00 p.m. other than clean up.
(3) Set-up for the weekly Street Faire within City Rights of Way shall commence no earlier than 3:00 p.m. on the day of the Faire.

(4) No carnival or amusement rides (defined to include rides with moving passenger compartments or tracks) shall be permitted.

(5) Alcohol service shall be limited in accord with the terms of the liquor license issued to the DBA pursuant to the Colorado Liquor Code and shall be served and consumed only within the area designated on such license. The alcohol service areas shall be in locations and of a set-up acceptable to the City. The DBA shall be responsible for compliance with all special event permitting requirements of the Colorado Liquor Code as they pertain to conduct of the Street Faire.

(6) Promptly after the end of a Street Faire, the DBA shall have all temporary equipment and facilities removed from the Licensed Premises or stored upon the Licensed Premises in a location acceptable to the City.

5. Utilities and Trash. The City will provide electrical service and trash pickup for the Street Faire. The Street Faire Coordinator shall have primary responsibility for coordinating details of the provision of trash services for the Street Faire, consistent with the terms of the City contract with the trash services vendor.

6. Site Improvements.

A. The DBA shall have the right to construct and install site improvements on the Licensed Premises as approved by the City to facilitate the use of the Licensed Premises as a performance site for the Street Faire.

B. The DBA at its sole expense shall be responsible for the construction and installation of the improvements to be undertaken by it. Upon completion, final inspection and acceptance by the City, all improvements to the Licensed Premises shall be considered the Property of the City, and the DBA shall upon request provide the City with a bill or sale or other instrument conveying such improvements to the City. The City shall at such time issue a letter confirming acceptance of the improvements. At the time of the completion of the work, the DBA shall provide the City with copies of all receipts and other documents evidencing the full actual costs of the improvements made to the Licensed Premises, which shall be subject to verification by the City.

C. All work by the DBA upon the Licensed Premises shall be completed according to plans and specifications that are satisfactory to and approved by the City in advance of the commencement of such work. The DBA shall not commence any work on the Licensed Premises unless and until final written plans and specifications have been submitted to and approved by the City, in the City's sole discretion. Any such plans and specifications shall include all information required for issuance of a building permit, and shall be prepared and submitted to the City at least 20 days prior to the date of commencement of the work. Upon receipt, the City shall review and either approve or disapprove such plans, and in the event of disapproval shall advise the DBA of the changes or additional information required to make such

plans acceptable to the City. Such process shall be repeated until the City has approved final plans and specifications for the work.

D. All work shall be completed in compliance with all codes, ordinances, rules and regulations of the City, in a good and workmanlike manner with appropriate building permits. Where required by City codes, ordinances, rules and regulations, the plans and specifications shall be stamped by a licensed architect or engineer. The DBA shall provide the City with lien waivers from all contractors or material providers providing work upon the Licensed Premises, in forms acceptable to the City. The DBA shall indemnify and hold harmless the City from all expense, liens, claims or damages to either persons or property arising out of or resulting from any work performed on the Licensed Premises at the instance of the DBA.

E. Except for the improvements specifically authorized by the City, the DBA shall not place, build, expand, or add to any structures or other items on the Licensed Premises.

7. General Use and Care of Licensed Premises. The DBA shall use reasonable care and caution to prevent damage, destruction or injury to the Licensed Premises. The DBA shall comply with all applicable ordinances, resolutions, rules, and regulations in the DBA's use and occupancy of the Licensed Premises. Upon final acceptance, the City shall be responsible for repair and maintenance of the site improvements installed by the DBA, except that the DBA shall be responsible for any repairs attributable to the negligence or other fault of the DBA. Upon final acceptance, the DBA shall also be responsible for operation of improvements during the DBA's Exclusive Use Times.

8. Signs. The DBA shall not place or permit any signs on the Licensed Premises, except that the DBA may place temporary banner signs on the Licensed Premises in connection with the Street Faire, which signage shall comply with the City's sign ordinances and regulations. Any other proposed for the Licensed Premises shall be subject to the prior written approval of the City, which approval may be granted or denied in the City's sole discretion.

9. Hazardous Materials. The DBA shall not keep any hazardous materials in or about the Licensed Premises without prior written consent of the City, which will be granted or denied in the City's sole discretion. "Hazardous material" includes but is not limited to asbestos, other asbestotic material (which is currently or may be designated in the future as a hazardous material), any petroleum base products, pesticides, paints and solvents, polychlorinated biphenyl, lead, cyanide, DDT, acids, ammonium compounds, and other chemical products (excluding commercially used cleaning materials in ordinary quantities) and any substance or material defined or designated as a hazardous or toxic substance, or other similar term, by any federal, state, or local law.

10. Compliance. If the DBA fails to comply with its obligations under this Agreement, the City may at its sole option terminate this Agreement as provided herein or take

such measures as it determines necessary to bring the Licensed Premises into compliance with the terms hereof, and the cost of any such measures shall be paid by the DBA.

11. Acknowledgment of General Condition. The DBA acknowledges that its use and occupancy hereunder is of the Licensed Premises in its present, as-is condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. The DBA acknowledges the City shall have no obligation to repair, replace or improve any portion of the Licensed Premises in order to make such Premises suitable for the DBA's intended uses; however, the foregoing shall not limit the City's obligations to maintain and repair site improvements as provided in Section 7 of this Agreement.

12. Acknowledgment and Acceptance of Specific Matters. The DBA specifically acknowledges that the Licensed Premises may not currently meet standards under federal, state or local law for the DBA's intended use, including but not limited to accessibility standards under the Americans with Disabilities Act and Uniform Building Code and adopted and in force in the City of Louisville. Compliance with such standards, if required for the DBA's use, shall be at the sole cost and expense of the DBA. If the DBA determines that compliance with such standards for the DBA's use is not feasible or economical, then the DBA may terminate this Agreement and the parties shall be released from any further obligations hereunder.

13. Taxes. The Licensed Premises is presently exempt from any real property taxation. In the event the County Assessor determines that the Licensed Premises is subject to the lien of general property taxes due to the DBA's use or occupancy, the DBA shall be responsible for the payment of taxes.

14. Liens. The DBA shall be solely responsible for and shall promptly pay for all services, labor or materials furnished to the Licensed Premises at the instance of the DBA. The City may at the DBA's expense discharge any liens or claims arising from the same.

15. DBA's and City's Property. The City shall have no responsibility, liability, or obligation with respect to the safety or security of any personal property of the DBA placed or located on, at, or in the Licensed Premises, it being acknowledged and understood by the DBA that the safety and security of any such property is the sole responsibility and risk of the DBA. Except as otherwise specifically provided in this Agreement, the DBA shall have no responsibility, liability, or obligation with respect to the safety or security of any personal property of the City placed or located on, at, or in the Licensed Premises, it being acknowledged and understood by the City that the safety and security of any such property is the sole responsibility and risk of the City. The DBA shall not remove any of the City's personal property from the Licensed Premises. The City shall not remove any of the DBA's personal property from the Licensed Premises, except as permitted incident to termination of this Agreement.

16. Right of Entry. Notwithstanding any other provisions of this Agreement to the contrary, the City shall at all times have the right to enter the Licensed Premises to inspect, improve, maintain, alter or utilize the Licensed Premises in any manner authorized to the City. In the exercise of its rights pursuant to this Agreement, the DBA shall avoid any damage or interference with any City installations, structures, utilities, or improvements on, under, or adjacent to the Licensed Premises.

17. Indemnity and Release. The DBA shall be solely responsible for any damages suffered by the City or others as a result of the DBA's use and occupancy of the Licensed Premises. The DBA agrees to indemnify and hold the City, its elected and appointed officers, agents, and employees harmless from and against all liability, claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of, resulting from, or in any way connected with (a) the DBA's use and occupancy of the Licensed Premises; (b) the conduct of the Street Faire; (c) any liens or other claims made, asserted or recorded against the Licensed Premises as a result of the DBA's use or occupancy thereof; or (d) the rights and obligations of the DBA under this Agreement.

18. Insurance. The DBA shall at its expense obtain, carry and maintain during the term of this Agreement, and shall require each contractor or subcontractor of the DBA performing work on the Licensed Premises to obtain, carry and maintain, a policy of comprehensive public liability insurance insuring City and the DBA against any liability arising out of or in connection with the DBA's use, occupancy or maintenance of the Licensed Premises or the condition thereof. Such insurance shall be at all times in an amount of not less than $1,000,000 combined single limit for bodily injury and property damage. Such policy shall include coverage for liquor liability and such other endorsements and coverages as the City may reasonably require. Such insurance shall include the DBA, its officers, employees and volunteers as named insureds, and shall also name City, its officers and employees as additional insureds. A certificate of insurance shall be completed by the DBA's insurance agent(s) as evidence that a policy or policies providing the coverages, conditions, and minimum limits required herein are in full force and effect, and shall be subject to review and approval by City prior to commencement of the DBA's occupancy of the Licensed Premises. As between the parties hereto, the limits of such insurance shall not limit the liability of the DBA.

19. No Waiver of Immunity or Impairment of Other Obligations. The City is relying on and does not waive or intend to waive by any provision of this Agreement the monetary limitations (presently $350,000 per person and $990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., as from time to time amended, or otherwise available to the City, and its officers and employees.

20. Termination for Breach. At the City's option, it shall be deemed a breach of this Agreement if the DBA defaults in the performance of any term or condition of this Agreement. In the event the City elects to declare a breach of this Agreement, the City shall have the right to

give the DBA thirty (30) days written notice requiring compliance with the terms and conditions of this Agreement, or delivery of possession and cessation of further use of the Licensed Premises. In the event any default remains uncorrected after thirty (30) days written notice, the City, at City's option, may declare the license granted herein terminated and revoke permission for any further DBA use of the Licensed Premises without prejudice to any other remedies to which the City may be entitled. Additionally, City in the event of default may, but shall not be obligated to, correct or remedy the DBA's default at the DBA's expense. Any such action by City to correct or remedy a default by City shall not be deemed a waiver or release of default or a discharge of any liability of the DBA for the expense of correcting or remedying such default.

21. Termination for Convenience.

A. The City shall also have the right at its option to terminate this Agreement for its convenience and without any cause of any nature by giving written notice at least ninety (90) days in advance of the termination date.

B. The DBA shall have the right at its option to terminate this Agreement for its convenience and without any cause of any nature by giving written notice to the City at least ninety (90) days in advance of the termination date.

22. Street Faire Committee. The DBA has formed a Street Faire Committee that will handle all decision making duties for operations of the Louisville Street Faire. The committee will be a 5-person committee of and appointed by the Board of Directors of the DBA, except that the City Manager will choose one member of the 5-person committee to represent the City's interests, with the remaining members selected by the DBA Board. The Street Faire Committee maintains artistic autonomy concerning musical palette, genre, band size and budget. Louisville Street Faire financial information will be made available to the City through the City's Street Faire Committee representative, and the DBA shall provide such financial information as is requested by the City to determine the parties' financial obligations hereunder.

23. City Financial and Service Assistance. With respect to operation of the Louisville Street Faire for the years of 2018, 2019, and 2020, the City and DBA agree as follows, subject to Section 31 of this Agreement:

A. The City will provide police services at no charge to the DBA. The City will decide in its sole discretion the level of police services needed to ensure proper public safety. The DBA shall be responsible for the costs of any additional private security.

B. The City will provide parking shuttle service at no cost to the DBA. The City will decide in its sole discretion the parking shuttle level of service. The City shall contract for the shuttle service. The Street Faire Coordinator shall have primary responsibility for coordinating shuttle service operations, consistent with the terms of the City contract with the shuttle service vendor.

C. The City will provide the funding for a Street Faire Coordinator contracted by the DBA to be responsible for the Louisville Street Faire operations, up to a maximum of $45,000. This position will be the contact person for the City for all Louisville Street Faire items. A scope of work for the Coordinator contract will be created and developed by the Street Faire Committee. The DBA shall allow the City to review and comment on the Coordinator contract prior to solicitation and award thereof. The City, in its discretion and as requested by the Street Faire Committee will assist the DBA in publicizing, screening, and contracting for the position. The Street Faire Coordinator shall be a contractor of the DBA and the DBA shall be solely responsible for award and administration of the Coordinator contract. The Street Faire Coordinator shall not be a contractor or employee of the City and the Coordinator contract shall include acknowledgments of same in the form required by the City.

D. In the event the annual revenues are less than the DBA's costs to operate the 2018, 2019, or 2020 Louisville Street Faire, as determined by the Street Faire Committee, the City will provide a payment equaling 80% of the shortfall within 90 days of the final documentation of the Louisville Street Faire revenues and expenses for the year. The DBA will cover the remaining 20% of a shortfall, if any, up to a maximum of $5,000, however, in the event $5,000 is less than 20% of the shortfall, the City will increase its payment to cover the remainder.

E. The City will purchase a tent not to exceed $25,000 to replace the existing tent owned by the DBA. If the desired tent cost is greater than $25,000, the DBA will fund the remaining funds needed. All or part of the DBA funding may be made in the form of trade-in of the existing DBA tent. The new tent will be owned by the City. The DBA will provide its setup and takedown and storage annually.

24. Restoration of Licensed Premises. At the termination of this Agreement by lapse of time or otherwise, DBA shall deliver up the Licensed Premises in as good a condition as when the DBA took possession, excepting only ordinary wear and tear. At the time of such termination, the DBA at its sole option and expense may remove from the Licensed Premises any items of personal property owned by the DBA. Any items of personal property not removed by the date of termination shall become the property of the City, and the DBA shall execute and deliver to the City, at the time of termination, a bill of sale for such items of personal property. Any fixtures, structures, or improvements owned by the DBA or on the Licensed Premises at the time of termination shall, at the City's sole option, be deemed the property of the City, or removed at the DBA's sole expense.

25. Notices. Any notices or communication required or permitted hereunder shall be given in writing and shall be personally delivered, or sent by facsimile transmission or by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

City: DBA:

City of Louisville
Attn: City Manager
749 Main Street
Louisville, CO 80027

Downtown Business Association of Louisville, Inc.
Attn: Rick Kron, President
P.O. Box 311
Louisville, CO 80027

or to such other address or the attention of such other person(s) as hereafter designated in writing by the parties. Notices given in the manner described above shall be effective, respectively, upon personal delivery, upon facsimile receipt, or upon mailing.

26. Existing Rights. The DBA understands that the license granted hereunder is granted subject to prior franchise agreements and subject to all easements and other interests of record applicable to the Licensed Premises. The DBA shall be solely responsible for coordinating its activities hereunder with the holders of such franchise agreements or of such easements or other interests of record, and for obtaining any required permission for such activities from such holders if required by the terms of such franchises or easements or other interests.

27. No Waiver. Waiver by the City or the DBA of any breach of any term of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other term or provision thereof.

28. No Assignment. Except as provided in this Section 28, this Agreement and the license granted herein is personal to the parties hereto. The DBA shall not transfer or assign any rights or obligations under this Agreement, for monetary or any other consideration, without the prior written approval of the City, which approval is solely at the discretion of the City. Consent is hereby given for the DBA to assign to the Main Street Louisville Business Improvement District, a business improvement district organized pursuant to C.R.S. Section 31-25-1201 et seq. (hereinafter "District") the right to occupy the Licensed Premises in conjunction with the DBA; provided, however, that such consent shall not be deemed effective until the District has executed and delivered to the City its written agreement to be bound by all terms and conditions of this Agreement. No such assignment shall relieve the DBA of its obligation to fully comply with the terms and conditions of this Agreement.

29. Entire Agreement. This Agreement is the entire agreement between the City and the DBA, may be amended only by written instrument subsequently executed by the City and the DBA. This Agreement replaces the License and Improvement Agreement between the City and the DBA dated April 4, 2003, the License, Improvement Agreement signed November 2, 2015, and the License, Improvement and Assistance Agreement for 2016 (collectively, the "Original Agreements"). Such Original Agreements are terminated; except, as provided therein, all of the terms and conditions of the Original Agreements concerning release, indemnification, termination, remedies and enforcement shall survive termination.

30. Survival. All of the terms and conditions of this Agreement concerning release, indemnification, termination, remedies and enforcement shall survive termination of this Agreement.

31. Financial Obligations. The DBA acknowledges that all financial obligations of the City hereunder beyond 2018 are expressly subject to annual budgeting and appropriation by the City Council of the City in its discretion. Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. Nor shall any provision of this Agreement constitute a mandatory charge, requirement or liability beyond the current fiscal year or above amounts appropriated by the City Council of the City. The DBA understands and agrees that any decision of the City Council to not appropriate funds shall be without recourse, penalty or liability to the City.

32. No Personal Liability. No elected official, officer, employee, contractor, or volunteer of the City or director, officer, employee, contractor, or volunteer of the DBA shall have any personal liability for any claim, loss, damage, action, or suit arising from this Agreement.

33. Effective Date. This Agreement is effective on and after January 1, 2018.

NEXT PAGE IS THE SIGNATURE PAGE

**IN WITNESS WHEREOF**, the parties have entered into this Agreement on the date first above written.

CITY OF LOUISVILLE

By: _____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

CITY OF LOUISVILLE SEAL COLORADO

DOWNTOWN BUSINESS ASSOCIATION
OF LOUISVILLE, INC.

By: _____
Norman F. Kron, President

**EXHIBIT A**
**LEGAL DESCRIPTION**

PARCEL A:

The North 126 Feet of Block A, Town of Louisville, County of Boulder, State of Colorado,

Except that portion as conveyed by deed recorded March 11, 1963, in Book 1270 at Page 156.

The above-described parcel is also known as (through deeds of record) the South Half of Lot 2 and all of Lot 3, Block A, Town of Louisville.

PARCEL B:

The westerly 25 feet of the former Colorado and Southern Railroad right of way lying adjacent to the tract as set forth as Parcel A, above, County of Boulder, State of Colorado.

And, the area in the Louisville Public Library parking lot and the Front Street and Walnut Street rights of way, all as generally shown on Exhibit B.

# EXHIBIT B

## MAP OF LICENSED PREMISES
(See Following Page)

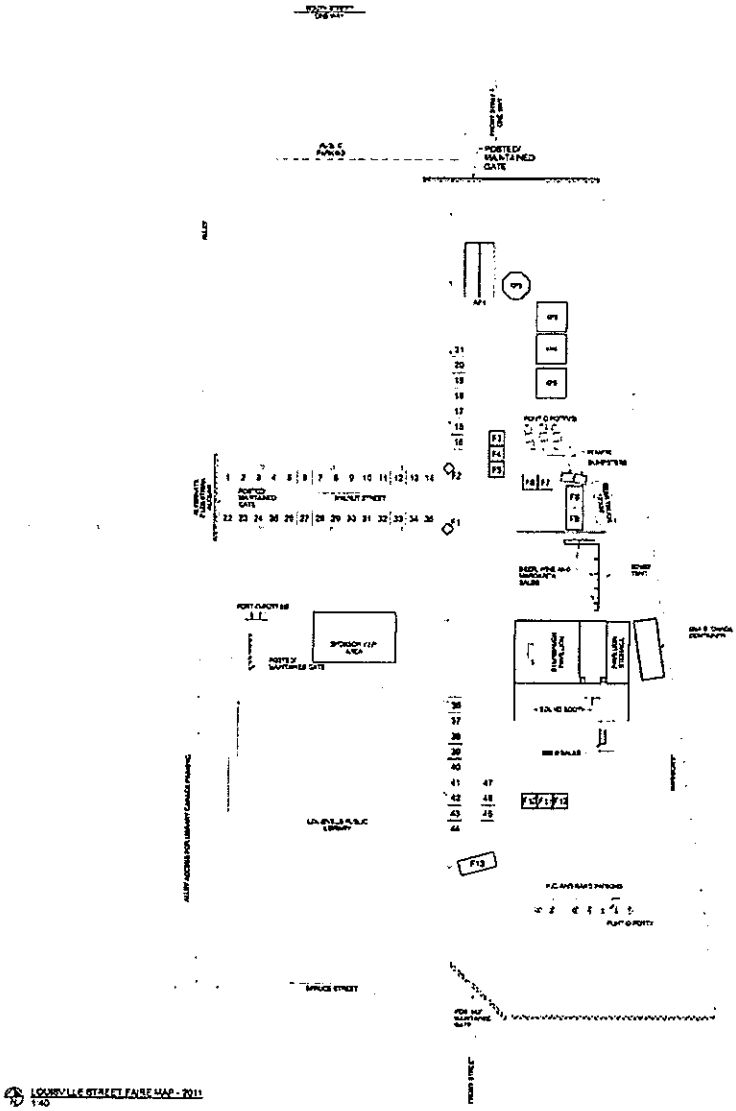

**EXHIBIT C**

**DBA EXCLUSIVE USE TIMES – 2018**

8 Event Nights

If not otherwise agreed in writing by April 30, 2018, the 2018 event nights shall be:
June 8, 15, 22, 29, July 13, 20, 27, August 10

The parties have executed this Exhibit C (2018 Exclusive Use Dates) to the License, and Improvement, and Assistance Agreement on the dates set forth under their respective signatures.

CITY OF LOUISVILLE

By: Heather Balser
Heather Balser
City Manager

Date: 5-8-18

DOWNTOWN BUSINESS ASSOCIATION OF LOUISVILLE, INC.

By: Norman F. Kron
Norman F. Kron
President

Date: 12-19-17

**FIRST AMENDMENT TO LICENSE AGREEMENT**

This First Amendment to License Agreement ("Amendment") is made and entered into as of the 1st day of January, 2020, by and between the City of Louisville ("City") and the Downtown Business Association of Louisville ("DBA")

WHEREAS, the City and the DBA entered into a "License, Improvement, and Assistance Agreement (2018, 2019, and 2020 Louisville Street Faire)" ("License Agreement") and desire to amend the same as provided herein.

NOW, THEREFORE, in consideration of the premises and promises contained herein, the City and DBA agree as follows.

1 Section 22 is amended to read as follows (words to be deleted ~~stricken~~, words to be added <u>underlined</u>)

> 22. <u>Street Faire Committee</u>. The DBA has formed a Street Faire Committee that will handle all decision making duties for operations of the Louisville Street Faire. The committee will be a 6-person committee appointed by the Board of Directors of the DBA, except that that City Manager will ~~choose~~ <u>appoint</u> one <u>City staff</u> member <u>and the City Council will appoint one elected official to serve on</u> ~~of~~ the 6-person committee to represent the City's interests, with the remaining members selected by the DBA Board. <u>A quorum of the Committee shall ordinarily be four members; however, if the elected official appointed by the City Council does not attend a Committee meeting and the City staff member appointed by the City Manager is in attendance at such meeting, then the quorum for such meeting shall be three members. Attendance at any Committee meeting by any member of the Committee may be in person or by conference telephone.</u> The Street Faire Committee maintains artistic autonomy concerning musical palette, genre, band size and budget. Louisville Street Faire financial information will be made available to the city through the City's Street Faire Committee representative, and the DBA shall provide such financial information as is requested by the City to determine the parties' financial obligations hereunder

2. A new sub-section 23.F is added to the License Agreement to read as follows.

(a) Notwithstanding Section 23.D hereof, and in addition to the City's financial and service assistance set forth generally in Section 23, on or before January 15, 2020, the City will furnish $25,000 to the DBA for the purpose of assisting with the payment for two "more well-known headliner bands" ("Brand Bands") to perform during two nights of the Street Faire in July and/or August 2020 ("Two Nights") The DBA will fund those same Two Nights for $9,000 each, therefore, the average total Band Costs (as defined below) for each of those Two Nights will be $21,500 each night.

(b) If Street Faire Income (as defined below) exceeds the Total Costs (also as defined below) for either or both of the Two Nights ("Positive Net Revenue"), then the Positive Net Revenue will be distributed 80% to the City and 20% to the DBA for such night or nights.

(c) If Street Faire Income is less than Total Costs ("Negative Net Revenues") for either or both of the Two Nights, then the Negative Net Revenues up to $21,500 per night of the Two Nights shall be the responsibility of the City If there are Negative Net Revenues over $21,500 for a night, then 80% of such loss shall be allocated to the City and 20% allocated to the DBA in the manner provided in Section 23.D of the License Agreement.

(d) Positive and Negative Net Revenues for the other six Street Faire nights shall remain subject to Section 23.D of the License Agreement.

(e) The DBA will determine Street Faire Income and costs in 2020 in substantially the same manner as was reported in 2019 The following definitions apply for purposes of this Section 23.F

(I) "Street Faire Income" for each of the Two Nights means the sum of: (i) the general donations and vendor fees of the Street Faire divided by eight, (ii) the City's $25,000 contribution allocated as $12,500 for each of the Two Nights, (iii) the general sponsor revenues of the Street Faire divided by eight, and (iv) Beer Garden sales (including wine and margarita sales) for the subject night.

(II) "Total Costs" for each of the Two Nights means the sum of: (i) Band Costs, (ii) other additional reasonable costs occasioned by the additional audience, such as added security, EMS, contract services (not including the Manager),, waste management, and (iii) as determined in the manner substantially as reported in 2019, Sales Tax, Alcohol Expense, and Fixed Costs.

(III) "Band Costs" for each of the Two Nights means the sum of: (i) compensation paid to the Brand Band engaged to perform for the night, (ii) backline costs for such Band, (iii) hotel costs for such Band, (iv) other additional reasonable costs occasioned by the contract used to hire the Brand Band, such as lighting, promotional marketing, and video production and projection/display

(f) The DBA will make a written report to the City after four Street Faire nights and an oral report to the City Council at that time if requested to do so by the City Manager

CITY OF LOUISVILLE, COLORADO

Robert P Muckle, Mayor

Attest:

Meredyth Muth, City Clerk

DOWNTOWN BUSINESS
ASSOCIATION OF LOUISVILLE

By:
President

**SUBJECT:** **APPROVAL OF RESOLUTION NO. 21, SERIES 2020 – A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY OF LOUISVILLE CONCERNING A GRANT FOR AT-GRADE CROSSING IMPROVEMENTS AT FIVE PEDESTRIAN CROSSING INTERSECTIONS ALONG SOUTH BOULDER ROAD**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **KURT KOWAR, PUBLIC WORKS DIRECTOR**
**MEGAN DAVIS, DEPUTY CITY MANAGER**

**SUMMARY:**
In 2019, the City received a funding grant from DRCOG for the construction of at-grade crossing improvements along South Boulder Road. The funding is a part of the DRCOG Transportation Improvement Program (TIP) awarded to the City through a competitive funding process. This is federal funding and the program is administered by CDOT. The total project cost for the South Boulder Road improvements is estimated to be $1,433,276. In its application, the City requested $1,003,293, with a local match of $429,983. While only 20% match is required by the grant, grant applications with an over-match (more than the 20% required match) scored higher than projects with a 20% match.

The IGA includes a maximum project funding amount of $1,253,750, which includes 20% in match funding from the City of Louisville. The maximum amount payable to the City under the agreement is $1,003,000, with required 20% matching funds of $250,750. The City has budgeted a total of $429,983 for the over-match.

The purpose of this Agreement is to disburse Federal funds, by way of reimbursement, to the Local Agency pursuant to CDOT's Stewardship Agreement with the FHWA. The agreement outlines the following scope of work between the City and CDOT:

- CDOT will oversee The City of Louisville when the City completes the design and construction of the South Boulder Road at grade crossing improvements project.
- CDOT and the City of Louisville believe it will be beneficial to complete the project because it will provide mobility and safety enhancements for users of South Boulder Road.
- This project will complete the design and construction of signal, pavement marking, geometric, and other infrastructure improvements at five intersections along South Boulder Road. (Including Main. St, Centennial, Eisenhower,
- The work will conform to all relevant parameters identified by CDOT.

- The design phase is scheduled to begin during fiscal year 2020, and will identify more exact requirements, qualities, and attributes for the project.
- The construction phase of the project is estimated to begin in fiscal year 2021 and shall finish as soon as reasonably possible.

**FISCAL IMPACT:**
The grant agreement and additional over-match funding will increase the City's budget by $1,422,276, with $1,003,293 in federal funding and match funding of $429,983. The match funding will come from the Transportation Master Plan first steps line in the CIP budget. Staff will include the budget adjustments for this project in the June budget amendment, creating a new expenditure budget line for the gross cost and a new revenue budget line for the grants and contribution revenues.

**PROGRAM/SUB-PROGRAM IMPACT:**
This project supports the Transportation program area goal for a safe, well-maintained, effective and efficient multi-modal transportation system at a reasonable cost.

**RECOMMENDATION:**
Staff recommends approval of Resolution No. 21, Series 2020.

**ATTACHMENT(S):**
1. Resolution No. 21, Series 2020
2. IGA Contract with CDOT for South Boulder Road improvements
3. DRCOG TIP grant application

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | **Financial Stewardship & Asset Management** | ☐ | **Reliable Core Services** |
| ☐ | **Vibrant Economic Climate** | ☒ | **Quality Programs & Amenities** |
| ☐ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

**RESOLUTION NO. 21**
**SERIES 2020**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY OF LOUISVILLE CONCERNING A GRANT FOR AT-GRADE CROSSING IMPROVEMENTS AT FIVE PEDESTRIAN CROSSING INTERSECTIONS ALONG SOUTH BOULDER ROAD**

**WHEREAS**, the State of Colorado through the Colorado Department of Transportation, ("CDOT") administers federal funds and grants under the Surface Transportation Improvement Program for local transportation programs; and

**WHEREAS**, the City of Louisville has applied for and been awarded a Surface Transportation Improvement Program grant for the design and construction of at grade crossing improvements, to include signal, pavement marking, geometric and other infrastructure improvements for pedestrian crossings along South Boulder Road; and

**WHEREAS,** the City desires to accept such grant and authorize execution of a grant contract for such funds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:**

1. The City Council hereby approves that certain Intergovernmental Agreement between the Colorado Department of Transportation and the City of Louisville for the Surface Transportation Improvement Program grant awarded to the City for the design and construction of at grade crossing improvements along South Boulder Road under Project No. STU M825-016 (23393) ("Contract"), in substantially the same form as the copy of such Contract accompanying this Resolution.

2. The Mayor is hereby authorized to execute the Contract on behalf of the City Council of the City of Louisville, except that the Mayor and City Manager are hereby further authorized to negotiate and approve such revisions to the Contract as the Mayor or City Manager determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Contract are not altered.

3. The Mayor, City Manager and City Staff are hereby authorized and directed to do all things necessary on behalf of the City to perform the obligations of the City under the Contract, including without limitation that the Mayor or City Manager are authorized to execute and deliver any certifications, reports, forms, option letters, contract amendments and other documents appropriate or required in connection with the Contract and completion of the City project to be funded in part with funds received under the Contract.

4. The City's obligation to make payments under the Contract is from year to year only, and payments of the City contribution for fiscal year 2021 are subject to annual budgeting and appropriation in the sole and absolute discretion of the City Council. Nothing in the Contract

shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution, Article X, Section 20, and the City's obligations under the Contract are expressly conditioned upon annual appropriation by the City Council.

**PASSED AND ADOPTED** this 17th day of March, 2020.

_____
Ashley Stolzmann, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

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

| | | | |
|---|---|---|---|
| **State Agency**<br>Department of Transportation | | | **Agreement Routing Number**<br>20-HA4-XC-03036 |
| **Local Agency**<br>CITY OF LOUISVILLE | | | **Agreement Effective Date**<br>The later of the effective date or March 18, 2020 |
| **Agreement Description**<br>At Grade Crossing Imp: S. Boulder Road | | | **Agreement Expiration Date**<br>March 17, 2030 |
| **Project #**<br>STU M825-016 (23393) | **Region #**<br>4 | **Contract Writer**<br>JH | **Agreement Maximum Amount**<br>$1,253,750.00 |

## THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

| | |
|---|---|
| **LOCAL AGENCY**<br>CITY OF LOUISVILLE<br><br>_____<br>Signature<br><br>_____<br>By: (Print Name and Title)<br><br>Date: _____ | **STATE OF COLORADO**<br>Jared S. Polis, Governor<br>Department of Transportation<br>Shoshana M. Lew, Executive Director<br><br>_____<br>Stephen Harelson, P.E., Chief Engineer<br><br>Date: _____ |
| 2nd State or Local Agency Signature if Needed<br><br>_____<br>Signature<br><br>_____<br>By: (Print Name and Title)<br><br>Date: _____ | **LEGAL REVIEW**<br>Philip J. Weiser, Attorney General<br><br>_____<br>Assistant Attorney General<br><br>_____<br>By: (Print Name and Title)<br><br>Date: _____ |

In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

**STATE CONTROLLER**
**Robert Jaros, CPA, MBA, JD**

By:_____
Department of Transportation

Effective Date:_____

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### 1. PARTIES

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

### 2. TERM AND EFFECTIVE DATE

A. Effective Date

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

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 the date of notice of CDOT final acceptance ("Agreement Expiration Date") 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. "**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.

S. "**OMB**" means the Executive Office of the President, Office of Management and Budget.

T. "**Oversight**" means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.

U. "**Party**" means the State or Local Agency, and "**Parties**" means both the State and Local Agency.

V. "**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.

W. "**Recipient**" means the Colorado Department of Transportation (CDOT) for this Federal Award.

X. "**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.

Y. **"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.

Z. **"State Fiscal Rules"** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).

AA. **"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.

BB. **"State Purchasing Director"** means the position described in the Colorado Procurement Code and its implementing regulations.

CC. **"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.

DD. "**Subcontractor**" means third-parties, if any, engaged by Local Agency to aid in performance of the Work.

EE. "**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.

FF. "**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.

GG. "**Work**" means the delivery of the Goods and performance of the Services in compliance with CDOT's Local Agency Manual described in this Agreement.

HH. "**Work Product**" means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. "Work Product" does not include any material that was developed prior to the 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 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.

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

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**

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:

1. Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
2. 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.
3. 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.
4. Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
5. 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.
6. Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
7. 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 CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

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

b. $2,000,000 general aggregate.

v. Professional Liability Insurance

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

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

b. $1,000,000 general aggregate.

vi. Crime Insurance

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

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

b. $1,000,000 general aggregate.

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) |
| Katelyn Triggs, Project Manager |
| Region 4 |
| 10601 10th Sttreet |
| Greeley, CO 80634 |
| 970-350-2160 |
| katelyn.triggs@state.co.us |

**For the Local Agency**

| |
|---|
| CITY OF LOUISVILLE |
| Megan Davis, Deputy City Manager |
| 749 Main Street |
| Louisville, CO 80027 |
| 303-335-4539 |
| mdavis@louisvilleco.gov |

**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.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

## EXHIBIT A, STATEMENT OF WORK

The Colorado Department of Transportation ("CDOT") will oversee The City of Louisville when the City completes the design and construction of the South Boulder Road at grade crossing improvements project. (Hereinafter referred to as "This Work") CDOT and the City of Louisville believe it will be beneficial to perform This Work because it will provide mobility and safety enhancements for users of South Boulder Road. This project will complete the design and construction of signal, pavement marking, geometric, and other infrastructure improvements at five intersections along South Boulder Road.

This Work will conform to the parameters articulated in the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, AASHTO "A Policy on Geometric Design of Highways and Streets", AASHTO "Roadside Design Guide", and the CDOT Project Development Manual, CDOT M&S Standards, CDOT Design Guide, CDOT Construction Manual, Manual on Uniform Traffic Control Devices, Highway Capacity Manual, City of Louisville Design and Construction Standards, along with all applicable State and Federal guidelines.

The design phase of This Work is scheduled to begin during fiscal year 2020. The design phase will identify more exact requirements, qualities, and attributes for This Work. (Herein after referred to as "The Exact Work"). The Exact Work shall be used to complete the construction phase of the project. The construction phase of the project is estimated to begin in fiscal year 2021 and shall finish as soon as reasonably possible.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

# EXHIBIT B, SAMPLE OPTION LETTER

| | | |
|---|---|---|
| **State Agency**<br>Department of Transportation | | **Option Letter Number**<br>ZOPTLETNUM |
| **Local Agency**<br>ZVENDORNAME | | **Agreement Routing Number**<br>ZSMARTNO |
| **Agreement Maximum Amount**<br>Initial term<br>State Fiscal Year ZFYY_1<br>Extension terms<br>State Fiscal Year ZFYY_2<br>State Fiscal Year ZFYY_3<br>State Fiscal Year ZFYY_4<br>State Fiscal Year ZFYY_5<br>Total for all state fiscal years | <br><br>$ ZFYA_1<br><br>$ ZFYA_2<br>$ ZFYA_3<br>$ ZFYA_4<br>$ ZFYA_5<br>$ ZPERSVC_MAX_AMOUNT | **Agreement Effective Date**<br>The later of the effective date or ZSTARTDATEX<br><br>**Current Agreement Expiration Date**<br>ZTERMDATEX |

**1. OPTIONS:**

A. Option to extend for an Extension Term

B. Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (does not apply to Acquisition/Relocation or Railroads) and to update encumbrance amounts (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

C. Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

D. Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

E. Option to update a Phase Performance Period and/or Modify OMB Uniform Guidance Information.

**2. REQUIRED PROVISIONS:**

**Option A**

In accordance with Section 2, C of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning on (*insert date*) and ending on the current contract expiration date shown above, under the same funding provisions stated in the Original Contract Exhibit C, as amended.

**Option B**

In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous)*is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for **Exhibit C** shall be labled as follows: **C-2**, **C-3**, **C-4**, etc.*).

**Option C**

In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to

authorize the Local Agency to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

**Option D**
In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

*(The following language must be included on ALL options):*
The Agreement Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

**Option E**
In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to update a Phase Performance Period and/or Modify OMB Uniform Guidance Information. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

**3. OPTION EFFECTIVE DATE:**

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

**APPROVALS:**

**State of Colorado:**
Jared S. Polis, Governor

By: _____ Date: _____
Executive Director, Colorado Department of Transportation

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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

**State Controller**
**Robert Jaros, CPA, MBA, JD**

By: _____

Date: _____

A. **Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be $1,253,750.00, which is to be funded as follows:

| | | |
|---|---|---|
| **1.** | **BUDGETED FUNDS** | |
| a. | Federal Funds<br>(80.00% of Participating Costs) | $1,003,000.00 |
| b. | Local Agency Matching Funds<br>(20.00% of Participating Costs) | $250,750.00 |
| | **TOTAL BUDGETED FUNDS** | $1,253,750.00 |
| **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: | $1,003,000.00 |
| 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 | $1,003,000.00 |
| b. | Less Estimated Federal Share of CDOT-Incurred Costs | $0.00 |
| | **TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY** | $1,003,000.00 |
| **4.** | **FOR CDOT ENCUMBRANCE PURPOSES** | |
| a. | Total Encumbrance Amount | $1,253,750.00 |
| b. | Less ROW Acquisition 3111 and/or ROW Relocation 3109 | $0.00 |
| | Net to be encumbered as follows: | $1,253,750.00 |

***Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.***

| | | | | |
|---|---|---|---|---|
| WBS Element 23393.10.30 | **Performance Period Start*/End Date**<br>TBD | Design | 3020 | $0.00 |
| WBS Element 23393.20.10 | 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 participating funds for this Work is 80.00% federal-aid funds to 20.00% Local Agency funds, it being understood that such ratio applies only to the $1,253,750.00 that is eligible for federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds $1,253,750.00, and additional federal funds are made available for the Work, the Local Agency shall pay 20.00% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the Local Agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than $1,253,750.00, 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.

## C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be $1,003,000.00 (for CDOT accounting purposes, the federal funds of $1,003,000.00 and the Local Agency matching funds of $250,750.00 will be encumbered for a total encumbrance of $1,253,750.00), 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 participating 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.

## D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving more than $750,000 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**

**NOT APPLICABLE**

# EXHIBIT E, LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

COLORADO DEPARTMENT OF TRANSPORTATION

## LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

| Project No. | STIP No. | Project Code | Region |
|---|---|---|---|
| STU M825-016 | SDR6717.023 | 23393 | 4 |

| Project Location | Date |
|---|---|
| South Boulder Road and SH 42 | 12/2/19 |

Project Description
South Boulder Road at grade crossing improvements

| Local Agency | Local Agency Project Manager |
|---|---|
| City of Louisville | Geoff Nettleton |
| **CDOT Resident Engineer** | **CDOT Project Manager** |
| Bryce Reeves | Katelyn Triggs |

**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 *CDOT Local Agency Manual*.

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 | RESPONSIBLE PARTY 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<br>• Project Development<br>• Construction Contract Administration (including Fabrication Inspection Services) | 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 | # |

CDOT Form 1243 3/16 Page 1 of 4

Previous editions are obsolete and may not be used.

| 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<br>This project ☐ is ☒ is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.)<br>Bryce Reeves 12/2/19<br>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 | | |
| | 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)<br>• Fabrication Inspection Notifications | X | # |
| | Pre-survey<br>• Construction staking<br>• Monumentation | X | |
| | Partnering (Optional) | X | |
| | Structural Concrete Pre-Pour (Agenda is in *CDOT Construction Manual*) | X | # |
| | Concrete Pavement Pre-Paving (Agenda is in *CDOT Construction Manual*) | X | # |
| | HMA Pre-Paving (Agenda is in *CDOT Construction Manual*) | X | # |
| 8.4 | Develop and distribute Public Notice of Planned Construction to media and local residents | X | |



Previous editions are obsolete and may not be used.

| NO. | DESCRIPTION OF TASK | RESPONSIBLE PARTY LA | CDOT |
|---|---|---|---|
| 8.5 | Supervise Construction | | |
| | A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision."<br>Geoff Nettleton — 303-335-4603<br>Local Agency Professional Engineer or CDOT Resident Engineer — Phone number | X | |
| | Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications | X | |
| | Construction inspection and documentation | X | |
| | Fabrication Inspection and documentation | X | |
| 8.6 | Approve Shop Drawings | X | # |
| 8.7 | Perform Traffic Control Inspections | X | # |
| 8.8 | Perform Construction Surveying | X | |
| 8.9 | Monument Right-of-Way | X | |
| 8.10 | Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent)<br><br>Provide the name and phone number of the person authorized for this task.<br>Geoff Nettleton — 303-335-4603<br>Local Agency Representative — Phone number | X | |
| 8.11 | Prepare and Approve Interim and Final Utility and Railroad Billings | X | |
| 8.12 | Prepare and Authorize Change Orders | X | # |
| 8.13 | Submit Change Order Package to CDOT | X | |
| 8.14 | Prepare Local Agency Reimbursement Requests | X | |
| 8.15 | Monitor Project Financial Status | X | |
| 8.16 | Prepare and Submit Monthly Progress Reports | X | |
| 8.17 | Resolve Contractor Claims and Disputes | X | |
| 8.18 | Conduct Routine and Random Project Reviews<br><br>Provide the name and phone number of the person responsible for this task.<br>Bryce Reeves — 970-350-2126<br>CDOT Resident Engineer — Phone number | | X |
| 8.19 | Ongoing Oversight of DBE Participation | X | |
| **MATERIALS** | | | |
| 9.1 | Discuss Materials at Pre-Construction Meeting<br>• Buy America documentation required **prior to** installation of steel | X | |
| 9.2 | Complete CDOT Form 250 - Materials Documentation Record<br>• Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project<br>• Update the form as work progresses<br>• Complete and distribute form after work is completed | X | X |
| 9.3 | Perform Project Acceptance Samples and Tests | X | |
| 9.4 | Perform Laboratory Verification Tests | X | |
| 9.5 | Accept Manufactured Products<br><br>Inspection of structural components:<br>• Fabrication of structural steel and pre-stressed concrete structural components<br>• Bridge modular expansion devices (0" to 6" or greater)<br>• Fabrication of bearing devices | X | |
| 9.6 | Approve Sources of Materials | X | |
| 9.7 | Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures ☒<br>• Generate IAT schedule<br>• Schedule and provide notification<br>• Conduct IAT | X | # |



Previous editions are obsolete and may not be used.

| NO. | DESCRIPTION OF TASK | RESPONSIBLE PARTY LA | CDOT |
|---|---|---|---|
| 9.8 | Approve mix designs<br>• Concrete<br>• Hot mix asphalt | X | X |
| 9.9 | Check Final Materials Documentation | X | # |
| 9.10 | Complete and Distribute Final Materials Documentation | X | # |
| **CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE** | | | |
| 10.1 | Fulfill Project Bulletin Board and Pre-Construction Packet Requirements | X | |
| 10.2 | Process CDOT Form 205 - Sublet Permit Application<br>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.<br>• Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements.<br>• Complete CDOT Form 838 – OJT Trainee / Apprentice Record.<br>• Complete CDOT Form 200 - OJT Training Questionnaire | X | |
| 10.6 | Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.) | X | # |
| 10.7 | Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report | X | |
| **FINALS** | | | |
| 11.1 | Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.) | | X |
| 11.2 | Write Final Project Acceptance Letter | X | |
| 11.3 | Advertise for Final Settlement | X | |
| 11.4 | Prepare and Distribute Final As-Constructed Plans | X | |
| 11.5 | Prepare EEO Certification 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 | 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 | 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



Previous editions are obsolete and may not be used.

# 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 agree 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

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:

Civil Rights & Business Resource Center

Colorado Department of Transportation

2829 W. Howard Place

Denver, Colorado 80204

Phone: (303) 757-9234

REVISED 1/22/98 REQUIRED BY 49 CFR PART

# 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 tiem 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.

FHWA-1273 -- Revised May 1, 2012

# REQUIRED CONTRACT PROVISIONS
# FEDERAL-AID CONSTRUCTION CONTRACTS


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

ATTACHMENTS

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


## I. GENERAL

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

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

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

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

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

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

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

## II. NONDISCRIMINATION

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

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

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

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

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

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

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

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

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

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

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

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

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

## III. NONSEGREGATED FACILITIES

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

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

## IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

### 1. Minimum wages

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

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

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

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

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

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

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

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

will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

**2. Withholding**

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

**3. Payrolls and basic records**

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

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

**4. Apprentices and trainees**

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

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

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

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

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

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

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the 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:

18 U.S.C. 1020 reads as follows:

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

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

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

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

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

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

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

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

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

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

### 1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

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

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

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

* * * * *

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

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

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

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

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

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

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

**2. Instructions for Certification - Lower Tier Participants:**

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

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

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

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

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

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

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

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

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

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

* * * * *

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# EXHIBIT 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 Agencys and their contractors or the Local Agencys).

**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 Agencys and the Local Agencys 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 US.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 grouds 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 US.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 in order

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

| INTERNAL CONTROLS ASSESSMENT | | Yes | No | N/A |
|---|---|---|---|---|
| 12 | Has your entity had any significant changes in key personnel or accounting system(s) in the last year? *(e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.* | ☐ | ☐ | ☐ |
| 13 | Does your entity have financial procedures and controls in place to accommodate a federal-aid project? | ☐ | ☐ | |
| 14 | Does your accounting system identify the receipts and expenditures of program funds separately for each award? | ☐ | ☐ | |
| 15 | Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget? | ☐ | ☐ | |
| 16 | Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? *If Yes, in the comment section, please explain your current process for reviewing costs.* | ☐ | ☐ | ☐ |
| 17 | How many total FTE perform accounting functions within your organization? | ☐ ≥6 | ☐ 2 to 5 | ☐ <2 |
| **IMPACT ASSESSMENT** | | **Yes** | **No** | **N/A** |
| 18 | For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? *If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. ( *Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)* | ☐ | ☐ | |
| 19 | For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? *Response options:*<br>***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.*<br>***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.*<br>***N/A** = Check if have no violations.* | ☐ | ☐ | ☐ |
| **PROGRAM MANAGEMENT ASSESSMENT** | | **Yes** | **No** | **N/A** |
| 20 | Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |
| 21 | Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? *If Yes, please submit with this form. ( *The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)* | ☐ | ☐ | ☐ |
| 22 | a) Is your staff familiar with the relevant CDOT manuals and federal program requirements? | ☐ | ☐ | ☐ |
| | b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |
| | c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |

| | | | |
|---|---|---|---|
| d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |
| 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 *(Buy America requirements )? If Yes, please submit with this form.* | ☐ | ☐ | ☐ |

***Comments*** *- As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.*

☐ ***By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.***

*Tool Version: v2.0 (081816)*

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

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

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

**9.1. "Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38

**9.2. "Federal Award"** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

**9.3. "Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37

**9.4. "FFATA"** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

**9.5. "Grant" or "Grant Agreement"** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.

**9.6. "OMB"** means the Executive Office of the President, Office of Management and Budget.

**9.7. "Recipient"** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86

**9.8. "State"** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.

**9.9. "Subrecipient"** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.

**9.10. "Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

**9.11. "Uniform Guidance Supplemental Provisions"** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.

**10. Compliance**. Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions

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

**11. Procurement Standards.**

**3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.

**3.2 Procurement of Recovered Materials**. If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

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

**5.1 Election**. Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

**5.2 Exemption**. If Subrecipient expends less than $750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

**5.3 Subrecipient Compliance Responsibility**. Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

**6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

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

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

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

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

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

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

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

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

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

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

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

**4.3 Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**4.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**4.5 Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**4.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**7. Certifications**. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

**1. 8.Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30

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

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

10. **Performance Measurement**

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

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

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

| Part 1 | Base Information |
|---|---|

| | |
|---|---|
| **1.** Project Title | **South Boulder Road At-Grade Safety and Intersection Improvements** |
| **2.** Project *Start/End* points or Geographic Area<br>*Provide a map with submittal, as appropriate* | This project is located at South Boulder Road, between Eisenhower St. and SH 42, in Louisville, Boulder County, CO. See site location map Attachment 1. |
| **3.** Project Sponsor *(entity that will construct/ complete and be financially responsible for the project)* | City of Louisville, CO. |
| **4.** Project Contact Person, Title, Phone Number, and Email | Megan Davis, Deputy City Manager, 303-335-4539, mdavis@louisvilleco.gov |
| **5.** Does this project touch CDOT Right-of-Way, involve a CDOT roadway, access RTD property, or request RTD involvement to operate service? | ☐ Yes X☐ No<br>*If yes, provide applicable concurrence documentation with submittal* |

| | | |
|---|---|---|
| **6.** What planning document(s) identifies this project? | ☐ DRCOG 2040 Fiscally Constrained Regional Transportation Plan (2040 FCRTP) | |
| | X☐ Local plan: | City of Louisville South Boulder Road Small Area Plan<br>http://www.louisvilleco.gov/home/showdocument?id=9702<br>City of Louisville Transportation Master Plan (to be finalized July, 2019) http://www.louisvilleco.gov/Home/ShowDocument?id=22224<br>South Boulder Road Existing Conditions and Crossing Alternatives Analysis<br>http://www.louisvilleco.gov/Home/ShowDocument?id=21044 |
| | ☐ Other(s): | |
| | *Provide link to document/s and referenced page number if possible, or provide documentation with submittal* | |

**7.** Identify the project's **key elements**.

- ☐ Rapid Transit Capacity (2040 FCRTP)
- ☐ Transit Other: Transit Priority Lanes
- X☐ Bicycle Facility
- X☐ Pedestrian Facility
- X☐ Safety Improvements
- ☐ Roadway Capacity or Managed Lanes (2040 FCRTP)
- X☐ Roadway Operational

Grade Separation
- ☐ Roadway
- ☐ Railway
- X☐ Bicycle
- X☐ Pedestrian

- ☐ Roadway Pavement Reconstruction/Rehab
- ☐ Bridge Replace/Reconstruct/Rehab
- ☐ Study
- ☐ Design
- ☐ Other:

**8.** **Problem Statement** What specific Metro Vision-related regional problem/issue will the transportation project address?

The project will complete design and construction on at-grade crossing improvements proposed at five intersections along South Boulder Road. The objective of the recommended improvements is to provide safety and mobility enhancements that can be implemented in the short-term to benefit all users of South Boulder Road. Safety highlights for people walking or bicycling include reduced crossings distances, minimized conflicts with turning

vehicles through signal modifications, and a Pedestrian Hybrid Beacon at Eisenhower Drive. The proposed improvements would also benefit people driving on the corridor through countermeasures to address identified safety issues per the five year crash history and traffic operations analyzed as a part of this planning effort. Proposed countermeasures for these areas of concern include protected left turn movements, the extension of left-turn storage lanes, and a right-turn on red restriction at Via Appia. A map of the project locations can be found in Attachment 1.

The project seeks to address several Metro Vision related issues, including the desire to create a safe and resilient built environment surrounding the portions of the City that exist on both sides of South Boulder Road. New development has occurred on the north east end of Louisville, north of South Boulder Road, and important amenities are located on the south side of South Boulder Road, such as parks, the Public Library, Recreation and Senior Center, jobs and shopping, and more.

The project also supports a healthy and inclusive community by meeting the needs of increasingly vulnerable populations within the area directly north and south of South Boulder Road. This project will address several transportation challenges, including better multimodal connections between the north/south parts of the City that connect to mobility options for vulnerable populations and multimodal options for all users. The two bus routes that service Louisville travel along this section of South Boulder Road, connecting people to jobs, school, amenities and current and future regional transit routes including the Flatiron Flyer BRT. The improvements will provide safer crossings allowing for people to more easily and safely access transit and regional trails.

The project will also address traffic congestion and crashes on South Boulder Road by providing safety improvements for regional travelers, and will help reduce short-trip vehicle miles travelled in the City of Louisville by improving walk and bikability between the north and south sides of town.

South Boulder Road is identified as a principle arterial in the 2040 regional roadway system. The area around South Boulder Road and Main Street is located less than .10 mile from the intersection of South Boulder Road and SH 42. This area is one of four main activity centers in Louisville, with 23% of the City's retail along this corridor it serves as a job center and provides access to important services such as grocery stores. Louisville is nearing build out, but within the past 10 years the area directly north of South Boulder Road and east of SH 42 has seen some of the highest population growth (5 – 10%) throughout the City. There are approximately 1,100 new dwelling units in this area, including the Boulder County Housing Authority Kestrel development, the Foundry (approved but not yet constructed), Coal Creek Station (approved but not constructed) Steel Ranch, Steel Ranch South, Lanterns, Balfour, and North End. This development has resulted in increased vehicle traffic generated from within the region, as well as increased pedestrian traffic throughout the area. The City has installed multimodal transportation infrastructure to ensure connectivity, address the needs of vulnerable populations (such as extending transit service, installing new sidewalks and crossings, etc.), however the connections across South Boulder Road remains a challenge. The proposed improvements on South Boulder road would improve the multimodal access for these residents to reach schools (elementary schools and the middle school), and Downtown Louisville, where the Public Library, municipal offices, recreation services (public swimming pool), restaurants, shops and other amenities are located.

Starting at South Boulder Road and Main Street and continuing west along SBR across SH 42, the Average Daily Traffic Volumes (ADT) reaches over 30,000 ADT. South Boulder Road and Main Street experiences the highest ADT level along South Boulder Road within the City of Louisville, and is also the primary location where pedestrians cross South Boulder Road. Because South Boulder Road is a regional transportation corridor, many commuters use it to travel to job centers in and between the Cities of Lafayette, Louisville and Boulder. During peak times, this section of the corridor becomes very congested with traffic, which coincides with peak travel times for children walking to and from school. Safety improvements along the corridor, along with the countermeasures for vehicle travel will improve traffic flow and safety for vehicles as well.

There are three schools within approximately ½ mile of South Boulder Road in the planning area, and the Louisville Middle School and Louisville Elementary School both are the neighborhood schools for those residents living directly north of South Boulder Road and Main Street. Main Street is the primary crossing for children traveling from north of South Boulder Road to access the schools on the south side of the corridor. Garfield, Via Appia and Eisenhower are also heavily utilized crossing points. Louisville Elementary school enrollment is 584 students and Louisville Middle

School enrollment is 633 students. Coal Creek Elementary School is also within .25 mile of South Boulder Road, and is located just west of the planning area.

Improving vehicle and pedestrian safety is a Metro Vision identified problem and one of the key goals for this project. Between 2015 – 2018 a total of 105 crashes occurred in the one-mile study area (Eisenhower Drive to SH 42) on South Boulder Road. 33% of the crashes resulted in injury, and a total of two pedestrian and four bicycle crashes occurred in the study area during the same period.

The proposed at-grade improvements would benefit people walking and bicycling, as well as people that drive through the corridor. The signal and operational changes, and the geometric crossing improvements at each intersection would enhance the safety, comfort, and accessibility of all users along South Boulder Road. This project provides regional benefits and would help meet several of the DRCOG regional objectives, including expanding the regions multimodal transportation system and improving safety.

**9.** Define the **scope** and **specific elements** of the project.

The City has completed a significant amount of planning for this project. In 2016 the City completed a local area plan, the South Boulder Road small area plan, that identified the need for improved bicycle and pedestrian crossings as a high priority for residents to complete trail connections, provide more multimodal connections from the north/south section of the City, and facilitate safe routes to school and commuter connections. In 2018, the city received a GOCO planning grant to conduct feasibility analysis and initial design on potential crossing sites located on South Boulder Road. More detail on this grant can be found in Attachment 2. In 2018 City Council gave staff direction to move forward with design on the South Boulder Road and Main Street underpass, and to identify at-grade improvements that could be installed to improve vehicle and pedestrian safety and experience. This TIP funding proposal addresses the at-grade crossing improvements identified through the study.

This project will complete design and construction of signal changes and geometric crossing improvements located at four intersections along South Boulder Road in Louisville, including Via Appia, Garfield Ave., Centennial Dr. and Main Street. The City has completed 30% design on the project, identifying proposed alignment, utilities, and potential technical challenges associated with the project. The project will include completion of design and construction of the proposed changes. The specific elements of the project would include:

**SIGNAL AND OPERATIONAL IMPROVEMENTS**

• **Protected Left-Turn:** Reduces the potential for conflict between turning vehicles and people walking, bicycling, or driving.

• **Leading Pedestrian Interval (LPI):** Provides people crossing, especially vulnerable users, the opportunity to safely enter the intersection and begin crossing before vehicles may turn. LPIs have been shown to reduce pedestrian-vehicle crashes by as much as 60 percent.

• **No Right-turn LED Sign:** Provides additional warning for turning vehicles to stop and watch for people crossing.

• **No Right-turn on Red:** A Restriction all times for northbound right-turns at Via Appia addresses a crash history (seven crashes in three years) caused by that movement. The MUTCD identifies three right-turn crashes in one year as an impetus for this restriction, of which 2016 and 2018 would exceed and meet this threshold respectively.

• **Pedestrian Hybrid Beacon:** Provides people walking and bicycling the ability to stop traffic and safely cross South Boulder Road at Eisenhower Drive, which is approximately 100 feet wide at this location and has a posted speed limit of 40 mph.

**INFRASTRUCTURE IMPROVEMENTS**

• **Curb Extension:** Shortens the crossing distance by approximately 20 feet at each location and slows the speed of right-turning vehicles due to the tightened curb radii.

• **Pedestrian Island Refuge:** Extending the medians across the existing crosswalks provides people crossing with a more comfortable experience and slows the speed of left-turning vehicles.

• **Crosswalk Markings and Stop Bars:** Provide clear delineation of the pedestrian zone, and defines the space to maintain a safe distance and level of comfort between people crossing and vehicles.

• **Left-turn Storage Lane Extensions:** The signal changes may require extending the left-turn storage lanes at Main Street, Centennial Drive, and Via Appia to ensure that vehicle queueing does not extend into the through travel lanes during peak hours.

A detailed cost estimate for all aspects of the project can be seen in Attachment 3, along with a schematic drawing of the proposed projects.

**10.** What is the status of the proposed project?

The project was identified initially through the South Boulder Road Small Area Plan, which was completed in 2016. In 2017 the City wanted to conduct further analysis to identify the preferred location of an underpass on South Boulder Road, based on the need, technical feasibility and cost. The City applied and received a GOCO Planning Grant for $75,000 to study the connectivity options for pedestrians and bicyclists across South Boulder Road, including an underpass and/or at-grade improvements, and to provide 30% design on the top at-grade and grade-separated alternatives. Through this study, detailed analysis was completed for three locations for grade-separated crossings along South Boulder Road. At-grade improvements were explored through this analysis, and several improvements to signal timing, crosswalks, medians and geometric improvements at signals were recommended. This project includes further design and construction of the at-grade elements, which will improve safety and multimodal connectivity throughout the entire corridor.

TIP funding will support the final design and construction of the at-grade improvements.

| | |
|---|---|
| **11.** Would a smaller federal funding amount than requested be acceptable, while maintaining the original intent of the project? | X☐ Yes ☐ No |

*If yes, define smaller meaningful limits, size, service level, phases, or scopes, along with the cost for each.*

If the City were awarded a smaller amount of funding, we would consider phasing the project by intersection to complete some but not all of the intersections. Which intersection is completed in what phase would depend upon the amount of funding available, and the prioritization based on the final South Boulder Road connectivity study.

## A. Project Financial Information and Funding Request

| | | |
|---|---|---|
| **1. Total Project Cost** | | **$1,433,276** |
| **2. Total amount of DRCOG Regional Share Funding Request** *(no greater than **$20 million** and not to exceed **50% of the total project cost**)* | **$1,003,293** | **70% of total project cost** |
| **3. Outside Funding Partners** ***(other than DRCOG Regional Share funds)*** List each funding partner and contribution amount. | **$$ Contribution Amount** | **% of Contribution to Overall Total Project Cost** |
| City of Louisville | $429,983 | 30% |
| **Total amount of funding provided by other funding partners** *(private, local, state, Subregion, or federal)* | **$429,983** | |

| **Funding Breakdown** (year by year)* | | | | | |
|---|---|---|---|---|---|
| | | **The proposed funding plan is not guaranteed if the project is selected for funding. While DRCOG will do everything it can to accommodate the applicants' request, final funding will be assigned at DRCOG's discretion within fiscal constraint. Funding amounts must be provided in year of expenditure dollars using an inflation factor of 3% per year from 2018.* | | | |
| | **FY 2020** | **FY 2021** | **FY 2022** | **FY 2023** | **Total** |

| | | | | | |
|---|---|---|---|---|---|
| **Federal Funds (Subregional)** | $0 | $1,003,293 | $0 | $0 | **$1,003,293** |
| **Local Funds** | $225,000 | $204,983 | $0 | $0 | **$429,983** |
| **Total Funding** | $225,000 | $1,208,276 | $0 | $0 | **$1,433,276** |
| **4. Phase to be Initiated** *Choose from Design, ENV, ROW, CON, Study, Service, Equip. Purchase, Other* | Design/ENV/ROW | CON | | | |

**5. By checking this box**, the applicant's Chief Elected Official (Mayor or County Commission Chair) or City/County Manager for local governments or Agency Director or equivalent for others, has certified it allows this project request to be submitted for DRCOG-allocated funding and will follow all DRCOG policies and state and federal regulations when completing this project, if funded. ☒

# Part 2 Evaluation Criteria, Questions, and Scoring

## A. Regional significance of proposed project

WEIGHT **40%**

*Provide **qualitative and quantitative** (derived from Part 3 of the application) responses to the following questions on the regional significance of the proposed project.*

**1.** Why is this project regionally important?

South Boulder Road is a main arterial and regional connecter for south Boulder to Louisville and on to Lafayette. The road is heavily travelled with average daily traffic counts between approximately 17,000 and 30,000 vehicles, depending on the intersection and time of day. The speeds on South Boulder Road within the area average between 30 – 39 miles per hour, with the 85% speeds between 35 – 44 MPH. Census data shows that the City of Boulder has 4,900, Lafayette has 690 and Louisville has 1,000 daily commuters traveling along the east/west corridors between the Cities of Boulder, Louisville and Lafayette, including South Boulder Road. Pedestrian and bicycle crossing at the intersections along this corridor in Louisville have varied levels of safety facilities. In order to assess the corridor functionality related to north/south connectivity, the City recently conducted a connectivity study. This study explored north/south connectivity improvements that would result in no or minimal impacts on east/west vehicle utilization.

The regional impact of this project is a reduction in crashes along South Boulder Road, and improved safety for vehicles and pedestrians/bicycles alike.

**2.** Does the proposed project cross and/or benefit multiple **municipalities**? If yes, which ones and how?

Yes, while the proposed improvements provide a direct benefit to the City of Louisville, the Cities of Boulder and Lafayette will also see significant benefits. South Boulder Road is utilized as a commuter corridor for people travelling into/out of Boulder and Lafayette. The SH 7 PEL Study indicated that improvements on the east end of Lafayette at 119th St would result in additional traffic directed to South Boulder Road. This will increase the congestion along this corridor, directly impacting those intersections that are currently experiencing congestion and multimodal use. The intersection safety improvements will address safety for individuals travelling along the corridor to and from work, as well as local walkers and bikers in the City of Louisville. In addition, the crossing improvements for pedestrians and bicycles will increase access to regional trail connections for both Louisville and Lafayette, given that trail linkages between the cities can be made along South Boulder Road.

**3.** Does the proposed project cross and/or benefit another **subregion(s)**? If yes, which ones and how?

No

**4.** How will the proposed project address the specific transportation problem described in the **Problem Statement** *(as submitted in Part 1, #8)*?

This project will address several transportation challenges, including:

- Improving multimodal connections between the north/south parts of the City to connect bicyclists, pedestrians, and to improve vehicular traffic flow and safety.
- Improving mobility options for vulnerable populations, by creating safer and more accessibility to transit, bicycle and pedestrian facilities. Along the east end of South Boulder Road, there are numerous dense housing neighborhoods, including new developments on the northeast end of South Boulder Road. In addition, along South Boulder Road between Via Appia and Main Street there are numerous multi-family housing units, as well as the City's only mobile home park just east of Via Appia. Together, these residential communities result in one of Louisville's highest density areas of vulnerable populations, including persons

over 65 year of age, minority persons, low-income households, linguistically-challenged persons, individuals with disabilities, households without a motor vehicle and children ages 6 – 17. The Boulder County Housing Authority (BCHA) Kestrel development at SH 42 and Hecla Drive includes a unique population of people with mobility challenges: Of the 341 total residents 128 (37%) are seniors 55 and older, and 60 (18%) have a disability (that qualifies them for federal housing for disabled individuals). Another 86 residents under 18 also live in the development. Many of the residents don't have cars and rely on public transit and/or walking to access employment, food and other basic needs, activities and amenities. A recent car count indicated that there are fewer than 200 vehicles owned within the community.

- Addressing traffic congestion and crashes on South Boulder Road by providing safety improvements for regional travelers through at-grade improvements for pedestrians and cars.
- Reducing short-trip vehicle miles travelled in the City of Louisville by providing safer bicycle and pedestrian connections for people to travel across South Boulder Road to access amenities on either side, attend special events, get to school, seek City services, and more. Currently 31% of all trips to, from or within Louisville are less than 3 miles; this project will improve multimodal connections so that more people will walk or bike to these destinations.

**5.** One foundation of a sustainable and resilient economy is physical infrastructure and transportation. How will the **completed** project allow people and businesses to thrive and prosper?

Once the crossing and roadway improvements are complete, residents and visitors will have better options for travelling from the north end of town to the downtown area, the McCaslin area, the Recreation and Senior Center and other amenities throughout the City. Louisville's historic downtown includes several locally owned, independent businesses that depend on the local community and tourism to thrive. The improved access to the downtown area will bring more residents and visitors downtown.

**6.** How will connectivity to different travel modes be improved by the proposed project?

Connectivity for bicycles and pedestrians will be improved. People walking and biking will experience greater safety when crossing South Boulder Road, and will be able to have more options for crossings at various points along the corridor. There are also two DASH route stops on South Boulder Road in the area with the improvements, as well as two stops on Via Appia within ¼ mile of the crossing at South Boulder Road. The project will improve the crossings that allow for first and last mile access to these stops. The City's bikeshed (Attachment 6) illustrates the proximity of this section of the corridor to important amenities, and how these improvements will provide better connections for bicycle travel.

**7.** Describe funding and/or project partnerships *(other subregions, regional agencies, municipalities, private, etc.)* established in association with this project.

The effort for connectivity improvements along South Boulder Road has been supported by numerous public and private partners. The City of Louisville has worked with the City of Lafayette on regional trail connections, which includes trails that would be better connected through this project. In addition, BVSD and Boulder County Housing Authority have been partners in planning for this project, as well as supporting the GOCO grant.

Letters of support are in Attachment 5.

## B. DRCOG Board-approved Metro Vision TIP Focus Areas

WEIGHT **30%**

*Provide **qualitative and quantitative** (derived from Part 3 of the application) responses to the following questions on how the proposed project addresses the three DRCOG Board-approved Focus Areas (in bold).*

**1.** Describe how the project will **improve mobility infrastructure and services for vulnerable populations (including improved transportation access to health services).**

There is a high proportion of vulnerable populations in this area, with several multi-family apartment and condo residences as well as the mobile home park within one mile. The census data shows a large number of vulnerable

residents living within one mile of the midpoint on the corridor: Approximately 3,462 individuals over the age of 65, 1,840 minority persons, 332 linguistically challenged persons, 2,307 persons with disabilities and 4,295 children aged 6 – 17. In addition, there are nearly 2,000 low-income households, 476 without a motor vehicle within 1 mile.

This project supports infrastructure improvements to medians, curbs (curb extensions), sidewalks, pedestrian beacons, and other facilities that would significantly improve mobility infrastructure for people with disabilities, elderly persons and children. The proposed infrastructure will allow for more time to cross, median refuges for people who take more time in crossing the road, and curb and sidewalk improvements for ADA accessibility. In addition, as previously outlined, there are numerous vulnerable populations that live within ½ mile of the corridor and depend on transit service along South Boulder Road. This project will provide safer crossings for people to reach transit stops, as well as destinations on the north and south sides of this corridor.

The DASH bus does travel along this corridor, and goes to the People's Clinic, which is the Federally Qualified Health Center (FQHC) located off South boulder Road in Lafayette. This will provide improved access to transit stops along the corridor.

**2.** Describe how the project will **increase reliability of existing multimodal transportation network.**

The facility improvements will protect pedestrians and vehicles alike, reducing accidents and therefore ensuring reliability of the multimodal network. The improvements will encourage more people to walk and bike, thereby reducing the number of vehicles on the road, particularily for the short-trips that are taken often in Louisville. The City's walkshed map (Attachment 7) shows that this portion of South Boulder Road is within a highly dense walkshed – meaning that many amenities are within 05 or 6 –10 minutes of walking distance. Walking becomes a more reliable option with the proposed improvements.

**3.** Describe how the project will **improve transportation safety and security.**

The project will improve the safety of pedestrians and bicyclists, and reduce the potential for vehicle and pedestrian accidents. Many children living directly north of this underpass attend the schools directly south and this will provide a reliable transportation connection to BVSD public schools. The proposed safety improvements will help ensure continuous traffic flow with less frequent interruptions from accidents.

## C. Consistency & Contributions to Transportation-focused Metro Vision Objectives

WEIGHT **20%**

*Provide **qualitative and quantitative** responses (derived from Part 3 of the application) to the following items on how the proposed project contributes to Transportation-focused Objectives (in bold) in the adopted Metro Vision plan. Refer to the expanded Metro Vision Objective by clicking on links.*

| MV objective 2 | **Contain urban development in locations designated for urban growth and services**. |
|---|---|

**1.** Will this project help focus and facilitate future growth in locations where urban-level infrastructure already exists or areas where plans for infrastructure and service expansion are in place?

☐X Yes ☐ No

Louisville is nearing build-out, but these improvements will support pedestrian connections for two proposed developments that are anticipated in the next few years. The Foundry development and additional residential development at Kestrel will result in increased growth in the northeast portion of the City of Louisville. The project will provide improved multimodal mobility along the South Boulder Road corridor, allowing for better access to the

services and amenities that exist on the south side of the corridor, as well as important points of connection for any future development or redevelopment.

| MV objective 3 | **Increase housing and employment in urban centers**. |
|---|---|

**2.** Will this project help establish a network of clear and direct multimodal connections within and between urban centers, or other key destinations? ☐X Yes ☐ No

The entire purpose of this project is to provide safer multimodal connections between the residential-dense portions of town on both the north and south side of South Boulder Road and the urban centers. The key destinations that will become more accessible to a greater number of residents include the historic downtown Louisville, the Public Library, Memory Square Pool (public swimming pool), elementary and middle schools, job centers, the Recreation and Senior Center, parks and open spaces and regional trails.

| MV objective 4 | **Improve or expand the region's multimodal transportation system, services, and connections**. |
|---|---|

**3.** Will this project help increase mobility choices within and beyond the region for people, goods, or services? ☐X Yes ☐ No

This project will improve the multimodal transportation system along South Boulder Road, which is an important corridor for vehicles, transit, and bicycles/pedestrians. In addition, the project will help support connectivity and first and last mile connections to transit. The improvements will also benefit the movement of people throughout the region on South Boulder Road, by reducing the risk of accidents and improving safety.

| MV objective 6a | **Improve air quality and reduce greenhouse gas emissions**. |
|---|---|

**4.** Will this project help reduce ground-level ozone, greenhouse gas emissions, carbon monoxide, particulate matter, or other air pollutants?

The City expects that more people will bike and walk to closer destinations with improved facilities throughout the corridor. The City's walkshed map shows that this portion of South Boulder Road is within a highly dense walkshed – meaning that many amenities are within 05 or 6 –10 minutes of walking distance. With the estimated increase in walking, emissions could be reduced by 5.3 lbs per day from walking alone. Biking will also be more desirable with the intersection safety improvements, and would result in an estimated increased emissions reduction of 19 lbs per day. With 31% of all trips within and into/out of Louisville are short trips, providing more multimodal connectivity will promote walking and biking and reduce these short trips. ☐X Yes ☐ No

| MV objective 7b | **Connect people to natural resource or recreational areas**. |
|---|---|

**5.** Will this project help complete missing links in the regional trail and greenways network or improve other multimodal connections that increase accessibility to our region's open space assets? ☐ Yes ☐ No

Many parks, open spaces, trails and recreation amenities surround South Boulder Road near the intersection improvements, and the Via Appia Way and Eisenhower Drive improvements directly impact trail connectivity. Cottonwood Park, Lawrence Enrietto Park, Memory Square Park and public swimming pool, Miners Field, Louisville Community Park, to name a few, are all located within one mile of the South Boulder Road improvements. Large Open Space parcels, including the Harney Lastoka Open Space, Warembourg Open Space and Coyote Run Open Space are all within .5 – 1 mile of the area where the improvements will be installed.

The crossings will also improve upon important connection for regional trail access. The Coal Creek Trail, a regional trail connecting all the Southeast Boulder County communities is located just 1 mile from the intersection of South Boulder Road and Main Street. The trail is a 14-mile regional trail linking the Cities of Louisville, Lafayette, Broomfield,

and the Towns of Erie and Superior. This trail then connects with other Boulder County and City of Boulder Open Spaces, serving as a gateway to plethora outdoor recreation opportunities for the entire region.

The Highline Trail, which connects from Lafayette into Louisville on the east side of SH 42, crosses South Boulder Road at Via Appia Way, and connects directly into Cottonwood and Lake Park. A map with parks, open space and trail connections is Attachment 5.

| MV objective 10 | **Increase access to amenities that support healthy, active choices.** |
|---|---|

**6.** Will this project expand opportunities for residents to lead healthy and active lifestyles? ☐X Yes ☐ No

The newly remodeled Louisville Recreation and Senior Center (which currently receives 271,478 total visits per year) and the Louisville Sports Complex, which hosts baseball/softball games, practices and tournaments, as well as ultimate Frisbee and flag football (receives an estimated 25,000 users and visitors during the outdoors sports season), are in direct proximity to the area of the crossings. In addition, the pools and regional trail connections more easily accessible with the new underpass will support healthy, active living.

| MV objective 13 | **Improve access to opportunity**. |
|---|---|

**7.** Will this project help reduce critical health, education, income, and opportunity disparities by promoting reliable transportation connections to key destinations and other amenities? ☐X Yes ☐ No

The project will provide safety improvements that will benefit those utilizing multimodal mobility options along the South Boulder Road corridor, including RTD transit, walking and bicycling.

| MV objective 14 | **Improve the region's competitive position**. |
|---|---|

**8.** Will this project help support and contribute to the growth of the region's economic health and vitality? ☐ X Yes ☐ No

## D. Project Leveraging

WEIGHT **10%**

| | | |
|---|---|---|
| **9.** What percent of outside funding sources (non-DRCOG-allocated Regional Share funding) does this project have? | | 80%+ outside funding sources .....High<br>60-79% .....Medium<br>59% and below .....Low |

| Part 3 | **Project Data Worksheet – Calculations and Estimates**<br>*(Complete all subsections applicable to the project)* |
|---|---|

## A. Transit Use

| | |
|---|---|
| **1.** Current ridership weekday boardings | |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | | | |
| 2040 | | | |

| Transit Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|
| **3.** Enter estimated additional daily transit boardings after project is completed.<br>*(Using 50% growth above year of opening for 2040 value, unless justified)*<br>*Provide supporting documentation as part of application submittal* | | |
| **4.** Enter number of the additional transit boardings (from #3 above) that were previously using a different transit route.<br>(Example: **{#3 X 25%}** *or other percent, if justified)* | | |
| **5.** Enter number of the new transit boardings (from #3 above) that were previously using other non-SOV modes (walk, bicycle, HOV, etc.)<br>(Example: **{#3 X 25%}** *or other percent, if justified)* | | |
| **6.** = Number of SOV one-way trips reduced per day (#3 – #4 – #5) | | |
| **7.** Enter the value of **{#6 x 9 miles}**. (= **the VMT reduced per day**)<br>*(Values other than the default 9 miles must be justified by sponsor; e.g., 15 miles for regional service or 6 miles for local service)* | | |
| **8.** = Number of pounds GHG emissions reduced (#7 x 0.95 lbs.) | | |
| **9.** If values would be distinctly greater for weekends, describe the magnitude of difference: | | |
| **10.** If different values other than the suggested are used, please explain here: | | |

## B. Bicycle Use

| | |
|---|---|
| **1.** Current weekday bicyclists | 100 |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | 18,613 | 5,604 | **24,217** |
| 2040 | 19,189 | 5,777 | **24,966** |

| Bicycle Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|

| | | |
|---|---|---|
| **3.** Enter estimated additional weekday one-way bicycle trips on the facility after project is completed. | 30 | 50 |
| **4.** Enter number of the bicycle trips (in #3 above) that will be diverting from a different bicycling route. (Example: **{#3 X 50%}** *or other percent, if justified)* | 15 | 25 |
| **5.** = Initial number of new bicycle trips from project (#3 – #4) | 15 | 25 |
| **6.** Enter number of the new trips produced (from #5 above) that are replacing an SOV trip. (Example: **{#5 X 30%}** *(or other percent, if justified)* | 5 | 7.5 |
| **7.** = Number of SOV trips reduced per day (#5 - #6) | 10 | 17.5 |
| **8.** Enter the value of **{#7 x 2 miles}**. (= the VMT reduced per day) *(Values other than 2 miles must be justified by sponsor)* | **20** | **35** |
| **9.** = Number of pounds GHG emissions reduced (#8 x 0.95 lbs.) | 19 | 33.25 |
| **10.** If values would be distinctly greater for weekends, describe the magnitude of difference: | | |
| **11.** If different values other than the suggested are used, please explain here: | | |

## C. Pedestrian Use

| | |
|---|---|
| **1.** Current weekday pedestrians (include users of all non-pedaled devices) | 50 |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | 18,613 | 5,604 | **24,217** |
| 2040 | 19,189 | 5,777 | **24,966** |

| Pedestrian Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|
| **3.** Enter estimated additional weekday pedestrian one-way trips on the facility after project is completed | 40 | 60 |
| **4.** Enter number of the new pedestrian trips (in #3 above) that will be diverting from a different walking route (Example: **{#3 X 50%}** *or other percent, if justified)* | 20 | 30 |
| **5.** = Number of new trips from project (#3 – #4) | 20 | 30 |
| **6.** Enter number of the new trips produced (from #5 above) that are replacing an SOV trip. (Example: **{#5 X 30%}** *or other percent, if justified)* | 6 | 10 |
| **7.** = Number of SOV trips reduced per day (#5 - #6) | 14 | 20 |
| **12.** Enter the value of **{#7 x .4 miles}**. (**= the VMT reduced per day**) *(Values other than .4 miles must be justified by sponsor)* | 5.6 | 8 |
| **8.** = Number of pounds GHG emissions reduced (#8 x 0.95 lbs.) | 5.32 | 7.6 |

| | |
|---|---|
| **9.** If values would be distinctly greater for weekends, describe the magnitude of difference: | |
| **10.** If different values other than the suggested are used, please explain here: | |

## D. Vulnerable Populations

| | Vulnerable Populations | Population within 1 mile |
|---|---|---|
| Use Current Census Data | **1.** Persons over age 65 | 3462 |
| | **2.** Minority persons | 1840 |
| | **3.** Low-Income households | 1989 |
| | **4.** Linguistically-challenged persons | 332 |
| | **5.** Individuals with disabilities | 2307 |
| | **6.** Households without a motor vehicle | 476 |
| | **7.** Children ages 6-17 | 4295 |
| | **8.** Health service facilities served by project | 1 |

## E. Travel Delay *(Operational and Congestion Reduction)*

Sponsor must use industry standard Highway Capacity Manual (HCM) based software programs and procedures as a basis to calculate estimated weekday travel delay benefits. *DRCOG staff may be able to use the Regional Travel Model to develop estimates for certain types of large-scale projects.*

| | |
|---|---|
| **1.** Current ADT (average daily traffic volume) on applicable segments | 0 |
| **2.** 2040 ADT estimate | 0 |
| **3.** Current weekday vehicle hours of delay (VHD) (before project) | 0 |

| Travel Delay Calculations | Year of Opening |
|---|---|
| **4.** Enter calculated future weekday VHD (after project) | 0 |
| **5.** Enter value of **{#3 - #4} =** Reduced VHD | 0 |
| **6.** Enter value of **{#5 X 1.4}** = **Reduced person hours of delay** *(Value higher than 1.4 due to high transit ridership must be justified by sponsor)* | 0 |
| **7.** **After project peak hour congested average travel time reduction** per vehicle (includes persons, transit passengers, freight, and service equipment carried by vehicles). *If applicable, denote unique travel time reduction for certain types of vehicles* | 0 |
| **8.** If values would be distinctly different for weekend days or special events, describe the magnitude of difference. | |
| **9.** If different values other than the suggested are used, please explain here: | |

## F. Traffic Crash Reduction

| | | |
|---|---|---|
| **1.** Provide the current number of crashes involving motor vehicles, bicyclists, and pedestrians *(most recent **5-year** period of data)* | | Sponsor must use industry accepted crash reduction factors (CRF) or accident modification factor (AMF) practices *(e.g., NCHRP Project 17-25, NCHRP Report 617, or DiExSys methodology).* |
| **Fatal** crashes | 0 | |
| **Serious Injury** crashes | 3 | |
| **Other Injury** crashes | 32 | |
| **Property Damage Only** crashes | 70 | |
| **2.** Estimated reduction in crashes applicable to the project scope *(per the five-year period used above)* | | |
| **Fatal** crashes reduced | 0 | |
| **Serious Injury** crashes reduced | 0.28 | |
| **Other Injury** crashes reduced | 2.97 | |
| **Property Damage Only** crashes reduced | 6.49 | |

## G. Facility Condition

Sponsor must use a current industry-accepted pavement condition method or system and calculate the average condition across all sections of pavement being replaced or modified.
Applicants will rate as: Excellent, Good, Fair, or Poor

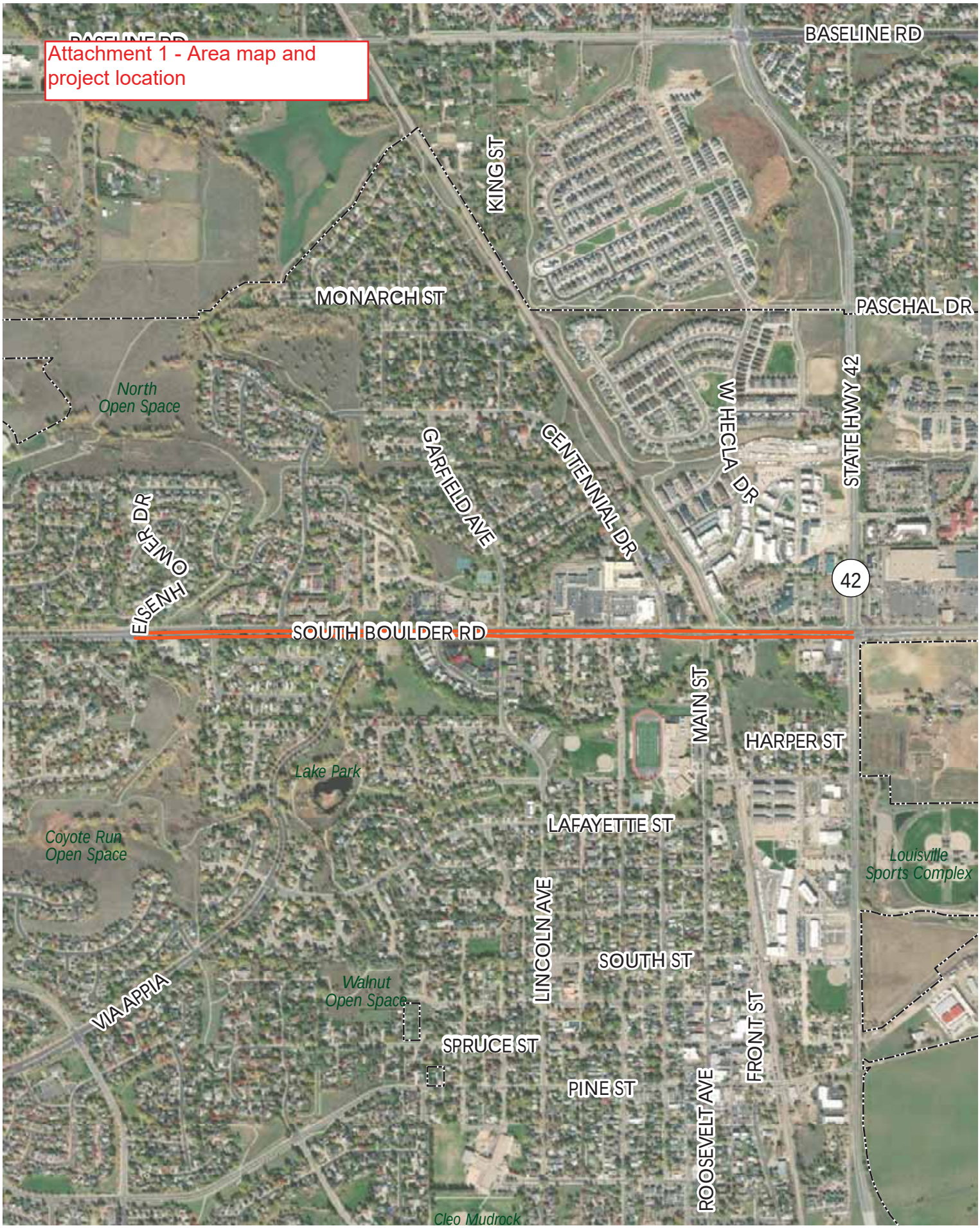
| | |
|---|---|
| ***Roadway Pavement*** | |
| 1. Current roadway pavement condition | |
| 2. Describe current pavement issues and how the project will address them. | |
| 3. Average Daily User Volume | |
| ***Bicycle/Pedestrian/Other Facility*** | |
| 4. Current bicycle/pedestrian/other facility condition | Choose an item |
| 5. Describe current condition issues and how the project will address them. | |
| 6. Average Daily User Volume | 0 |

## H. Bridge Improvements

| | |
|---|---|
| 1. Current bridge structural condition from CDOT | |
| 2. Describe current condition issues and how the project will address them. | |
| 3. Other functional obsolescence issues to be addressed by project | |
| 4. Average Daily User Volume over bridge | |

| **I. Other Beneficial Variables** *(identified and calculated by the sponsor)* | |
|---|---|
| 1. | |
| 2. | |
| 3. | |

| **J. Disbenefits or Negative Impacts** *(identified and calculated by the sponsor)* | |
|---|---|
| **1.** Increase in VMT? *If yes, describe scale of expected increase* | ☐ Yes ☐ No |
| | |
| **2.** Negative impact on vulnerable populations | |
| **3.** Other: | |




0 0.125 0.25 0.5 Miles

**South Boulder Road Corridor**
**From Hwy 42 to Eisenhower Drive**

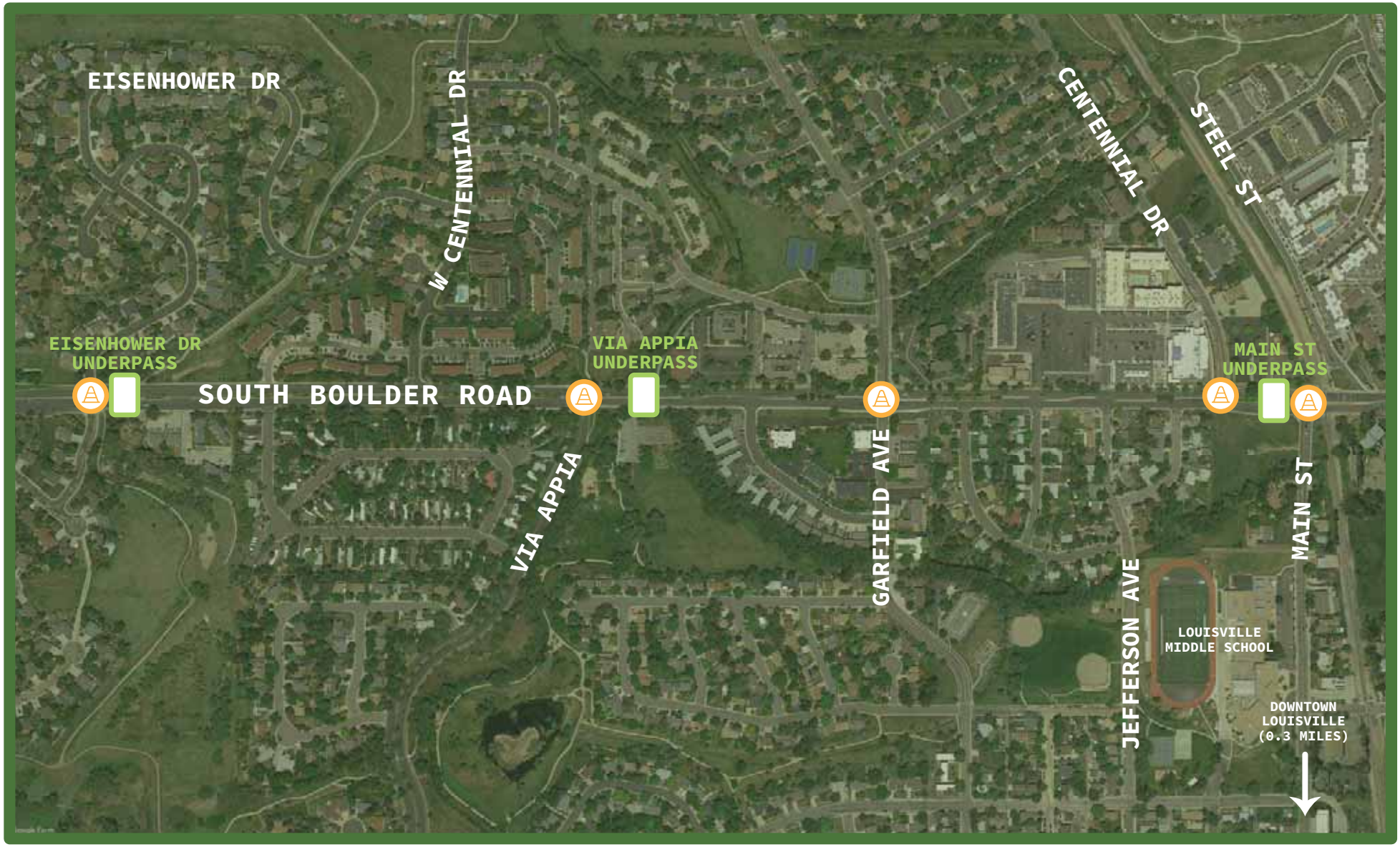



**Figure 1:** Proposed Project Locations

Proposed Undercrossing

Proposed At-Grade Crossing Improvement

Attachment 3

## South Boulder Road At-Grade Improvements

Cost Estimate

| Item | Qty | Unit | Unit Cost | Total Cost | Notes |
|---|---|---|---|---|---|
| **Signal Improvements** | | | | | |
| Remove Traffic Signal Equipment | 1 | EA | $ 15,500.00 | $ 15,500 | |
| Remove Caisson | 2 | EA | $ 15,000.00 | $ 30,000 | |
| Drilled Caisson (36 inch) | 15 | LF | $ 900.00 | $ 13,500 | |
| Drilled Caisson (48 inch) | 21 | LF | $ 700.00 | $ 14,700 | |
| 2-inch Electrical Conduit (Bored) | 100 | LF | $ 19.00 | $ 1,900 | |
| 3-Inch Electrical Conduit (Bored) | 200 | LF | $ 24.00 | $ 4,800 | |
| Pull Box (Type 1) | 2 | EA | $ 900.00 | $ 1,800 | |
| Wiring | 1 | EA | $ 10,000.00 | $ 10,000 | |
| Luminaire LED | 2 | EA | $ 2,100.00 | $ 4,200 | |
| Signal Head Back Plates | 5 | EA | $ 300.00 | $ 1,500 | |
| Pedestrian Signal Face (16) (Countdown) | 2 | EA | $ 650.00 | $ 1,300 | |
| Traffic Signal Face (12-12-12) | 7 | EA | $ 900.00 | $ 6,300 | |
| Pedestrian Push Button | 1 | EA | $ 810.00 | $ 810 | |
| Emergency Vehicle Traffic Signal Priority Control System | 1 | EA | $ 5,500.00 | $ 5,500 | |
| Intersection Detection System (Camera) | 1 | EA | $ 7,800.00 | $ 7,800 | |
| Traffic Signal-Light Pole Steel (1-25 Foot Mast Arm) | 1 | EA | $ 15,000.00 | $ 15,000 | |
| Traffic Signal-Light Pole Steel (1-60 Foot Mast Arm) | 1 | EA | $ 25,000.00 | $ 25,000 | |
| *Subtotal - Signal Improvements* | | | | *$ 159,610* | |
| **Main Street Undercrossing** | | | | | |
| **Site Demolition** | | | | | |
| Clear and Grub | 15,400 | SF | $ 1.00 | $ 15,400 | |
| Remove Concrete Sidewalk | 2,350 | SF | $ 1.25 | $ 2,938 | |
| Remove Curb & Gutter | 500 | LF | $ 18.00 | $ 9,000 | |
| Remove Asphalt | 9,000 | SF | $ 3.00 | $ 27,000 | |
| Saw Cutting Pavement for Removal | 3,000 | LF | $ 12.00 | $ 36,000 | |
| Remove Sanitary Sewer Line | 870 | LF | $ 60.00 | $ 52,200 | |
| Remove Existing Trees | 3 | EA | $ 700.00 | $ 2,100 | |
| Excavation Allowance | 1 | ALLOW | $ 110,000.00 | $ 110,000 | |
| Erosion Control | 1 | ALLOW | $ 60,000.00 | $ 60,000 | |
| *Subtotal - Site Demolition* | | | | *$ 314,638* | |
| **Utilities** | | | | | |
| Dry Utility Relocation | 1 | ALLOW | $ 90,000.00 | $ 90,000 | |
| Mechanical | 1 | ALLOW | $ 80,000.00 | $ 80,000 | Wall drainage system |
| Relocate Sanitary Sewer | 211 | LF | $ 400.00 | $ 84,400 | |
| Storm Trench Drain with Pump | 1 | ALLOW | $ 50,000.00 | $ 50,000 | |
| Electrical | 1 | ALLOW | $ 100,000.00 | $ 100,000 | Pathway lighting |
| *Subtotal - Utilities* | | | | *$ 404,400* | |
| **Right-of-Way Acquisition** | | | | | |
| Property Owner Cost to Cure | 1 | ALLOW | $ 200,000.00 | $ 200,000 | Both north and south properties |
| ROW Acquisition | 18,057 | SF | $ 15.00 | $ 270,855 | Both north and south properties |
| *Subtotal - Right-of-Way Acquisition* | | | | *$ 270,855* | |
| **Site Work** | | | | | |
| Structure Excavation and Backfill Allowance | 1 | ALLOW | $ 675,000.00 | $ 675,000 | Shoring |
| Structure Steel Reinforcement | 1 | ALLOW | $ 300,000.00 | $ 300,000 | Shoring |
| Install Box Culvert | 106 | LF | $ 4,000.00 | $ 424,000 | |
| Curb and Gutter | 540 | LF | $ 18.00 | $ 9,720 | |
| Asphalt Pavement - Parking Lot | 2,550 | SF | $ 5.00 | $ 12,750 | Includes aggregate base |
| Asphalt Pavement - South Boulder Road | 600 | SY | $ 77.00 | $ 46,200 | 8.5" asphalt 15" class 5" aggregate base |
| ADA Ramps | 4 | EA | $ 1,300.00 | $ 5,200 | Includes truncated domes |
| Concrete Stairs | 330 | LF | $ 95.00 | $ 31,350 | |
| Pedestrian Railing | 340 | LF | $ 70.00 | $ 23,800 | 42" tall |
| Guardrail | 400 | LF | $ 220.00 | $ 88,000 | Headwall mounted type-3 with beam |
| 4" Precast Cap | 850 | LF | $ 35.00 | $ 29,750 | |
| Stone Veneer Columns | 200 | SF | $ 80.00 | $ 16,000 | |
| Stone Veneer for Walls | 6,300 | SF | $ 80.00 | $ 504,000 | |
| Structural Concrete Walls | 5,300 | SF | $ 60.00 | $ 318,000 | Includes headwall |
| Standard Gray Concrete | 8,300 | SF | $ 60.00 | $ 498,000 | 6" thick includes box culvert path |
| Striping | 1 | ALLOW | $ 8,000.00 | $ 8,000 | South Boulder Road and adjacent parking lot |
| *Subtotal - Site Work* | | | | *$ 2,989,770* | |
| **Landscape** | | | | | |
| Soil Prep - Compost and Fertilizer as Required | 140 | CY | $ 40.00 | $ 5,600 | All planted areas - 6" depth, 2" turf grass |
| Steel Edger | 200 | LF | $ 2.00 | $ 400 | |
| Deciduous Tree | 12 | EA | $ 350.00 | $ 4,200 | 2" caliper |
| Evergreen Tree | 14 | EA | $ 300.00 | $ 4,200 | 6' height |
| Ornamental Tree | 8 | EA | $ 300.00 | $ 2,400 | 1.5" caliper |
| Mulch | 56 | CY | $ 50.00 | $ 2,800 | Shredded cedar - 4" depth |
| Shrubs/Grasses/Perennial | 4,500 | SF | $ 5.00 | $ 22,500 | |
| Turf Grass | 8,300 | SF | $ 0.70 | $ 5,810 | |
| *Subtotal - Landscape* | | | | *$ 47,910* | |
| **Irrigation** | | | | | |
| Irrigation System | 1 | ALLOW | $ 30,000.00 | $ 30,000 | Drip, spray, controller, and sleeving |
| *Subtotal - Irrigation* | | | | *$ 30,000* | |
| | | | | | |
| Subtotal Cost | | | | $ 4,217,183 | |
| *A. Survey* | | | *5%* | $ 210,860 | |

| | | | |
|---|---|---|---|
| *B. Design* | *15%* | $ | 632,580 |
| *C. Construction Management* | *10%* | $ | 421,720 |
| *D. Mobilization* | *10%* | $ | 421,720 |
| *E. Traffic Control* | *20%* | $ | 843,440 |
| Construction Subtotal *(Subtotal+A+B+C+D+E)* | | $ | 6,747,503 |
| *Environmental Costs/Water Quality Elements* | *3%* | $ | 202,430 |
| Project Subtotal *(Construction Subtotal+Environmental/Water)* | | $ | 6,949,933 |
| *Project Contingency* | *25%* | $ | 1,737,490 |
| **South Boulder Road At-Grade Improvements Project Estimate** | | **$** | **8,687,423** |

Attachment 4

# Main Street

Figure 10 illustrates the conceptual design of recommended improvements.

## SIGNAL IMPROVEMENTS

• **Protected-only left-turn:** Replace the westbound left-turn signal head from protected-permissive to protected-only.

• **Signal timing:** Due to the proposed reduction in crossing distance, re-optimize splits to account for decrease in needed walk time. Maintain six second leading pedestrian interval (LPI).

## INFRASTRUCTURE IMPROVEMENTS

• **Curb Extension:** Extend the southeast corner of the intersection and add directional curb ramps.

• **Crosswalk:** Realign the east crosswalk to new curb ramp, and refresh all crosswalk markings and stop bars.

• **Left-turn Lane:** Extend the westbound left-turn storage lane approximately 170 feet to accommodate potential queueing from signal changes.

## ADDITIONAL CONSIDERATIONS

The proposed extension of the westbound left-turn storage lane would require the removal of the existing eastbound left-turn storage lane that accesses the driveway immediately east of Steel Street. The north side driveway would then operationally become right-in, right-out only. The westbound left-turn storage lane into the parking lot serving 1032 South Boulder Road (Louisville Cyclery, etc.) would be maintained with a three-quarter, channelized turn design that maintains left-turn movement but restricts outbound traffic to right-in, right-out. An example of how such a design operates is shown in Figure 9. It is recommended that the City further analyze these options, the potential effects and tradeoffs of restricting vehicular access, and outreach to property owners.

Main Street and Centennial Drive currently operate as a clustered signalized intersection. Further study regarding the potential pros/cons of clustered versus coordinated operations at this intersection are suggested to ensure that intersections are operating at peak efficiency for all users of South Boulder Road. This could potentially be tested when two of the three signals at Main Street are reconstructed in tandem with the implementation of the Main Street undercrossing.

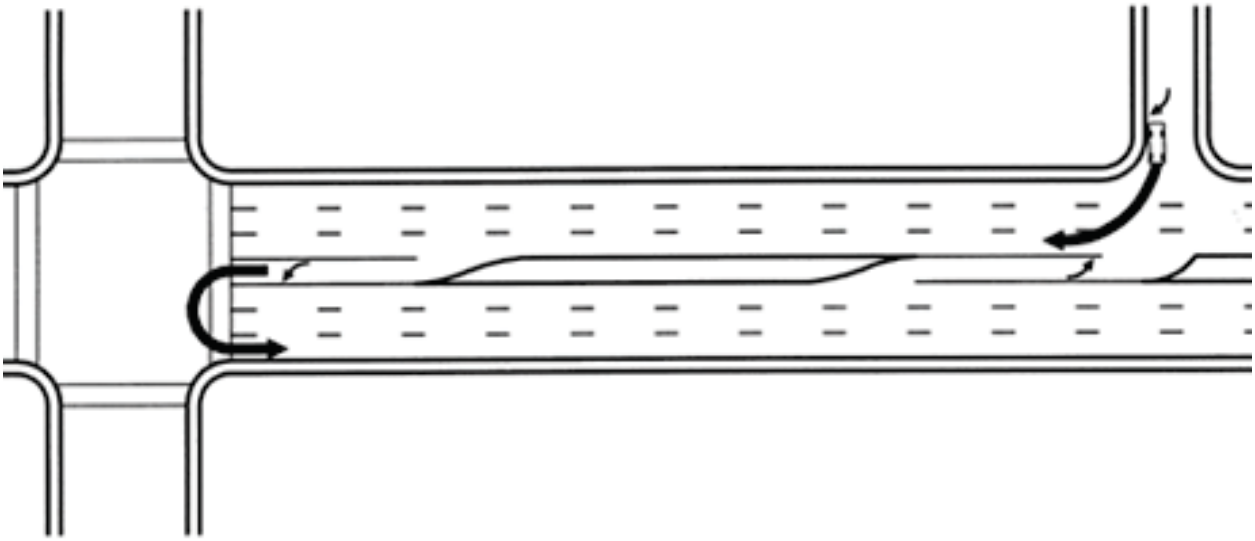


**Figure 9:** Example of channelized left-turn with right-in, right-out only restriction

**Figure 10:** Main Street At-Grade Improvements

0 20 40 80'

# Centennial Drive

Figure 11 shows the conceptual design of recommended improvements.

## SIGNAL IMPROVEMENTS

• **No Right-turn when Pedestrians Present:** Install a No Right-Turn LED blank out sign for southbound vehicles.

• **Leading Pedestrian Interval (LPI):** Add a six second LPI for north south crossing.

## INFRASTRUCTURE IMPROVEMENTS

• **Median Extension:** Extend the west side median and include cut-through ramp for crosswalk.

• **Crosswalk:** Refresh all crosswalk markings and stop bars.

• **Left-turn Lane:** Extend the eastbound left-turn storage lane approximately 80 feet to accommodate potential queueing.

**Figure 11:** Centennial Drive At-Grade Improvements

# Garfield Avenue

Figure 12 shows the conceptual design of recommended improvements.

## SIGNAL IMPROVEMENTS

• **Protected-permissive left-turn:** Replace the westbound and eastbound left-turn signal heads from permissive to protected permissive.

• **Signal Pole/Mast:** Install new eastbound signal to accommodate recommended signal head.

• **Signal Timing:** Update the intersection's signal timing plan to include protected left-turn movements and re-optimize.

• **Leading Pedestrian Interval (LPI):** Add a six second LPI for both South Boulder Road crossings and appropriate signage.

## INFRASTRUCTURE IMPROVEMENTS

• **Curb Extension:** Extend the southeast corner of the intersection and add directional curb ramps.

• **Median Extension:** Extend both medians and include cut-through ramps for crosswalks.

• **Crosswalk:** Refresh all crosswalk markings and stop bars.

## ADDITIONAL CONSIDERATIONS

Conceptual review of the westbound signal illustrated that the pole and mast can accommodate the additional weight of the new signal head; however, the mast may not meet the needed length to properly serve the left-turn lane. Additional field verification and analysis is recommended to ensure the existing mast length can properly accommodate the signal head.

Additionally, it is recommended that eastbound and westbound left-turn storage lane queuing be monitored to ensure spillback into the through travel lanes does not occur due to the left-turn signal operation changes.

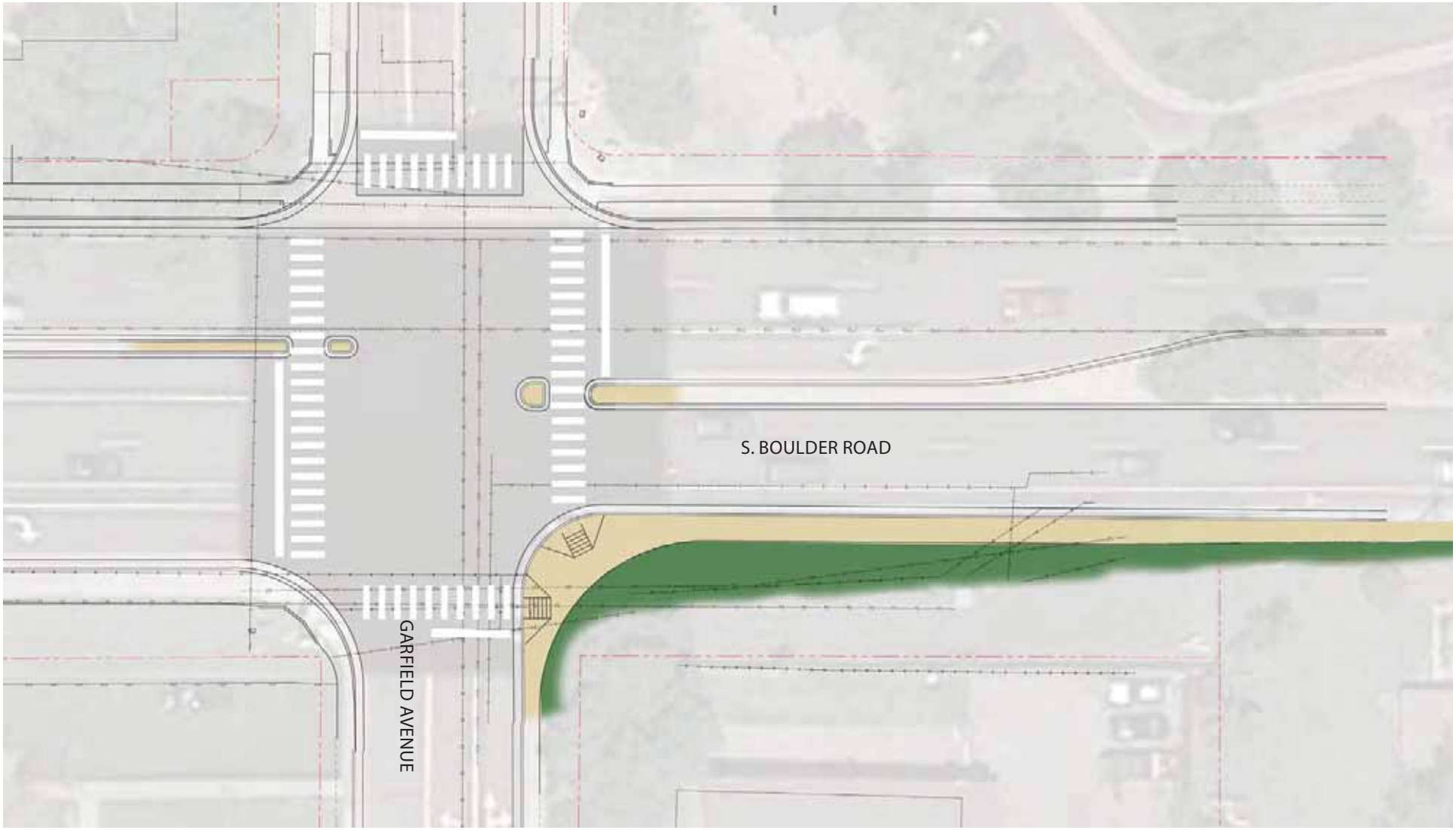



**Figure 12:** Garfield Avenue At-Grade Improvements

0 10 20 40'

# Via Appia

Figure 13 and 14 show the conceptual design of recommended improvements.

## SIGNAL IMPROVEMENTS

• **Protected-only left-turn:** Replace the westbound left-turn signal head from protected-permissive to protected-only.

• **Signal Timing:** Re-optimize the intersections splits and maintain a six second LPI.

• **No Right-turn on Red:** Add signage for no right-turn on red (RTOR) at all times for the northbound right-turn.

## INFRASTRUCTURE IMPROVEMENTS

• **Curb Extension:** Extend the southeast corner of the intersection and add directional curb ramps.

• **Median Extension:** Extend both medians and include cut-through ramps for crosswalks.

• **Crosswalk:** Realign the south crosswalk to new curb ramp, and refresh all crosswalk markings and stop bars.

• **Left-turn Lane:** Extend the westbound left-turn storage lane approximately 100 feet to accommodate potential queuing.

## ADDITIONAL CONSIDERATIONS

It is recommended that the existing curb cut providing westbound left-turn access to the south driveway for Cottonwood Park be removed, and the driveway operations changed to right-in, right-out only.

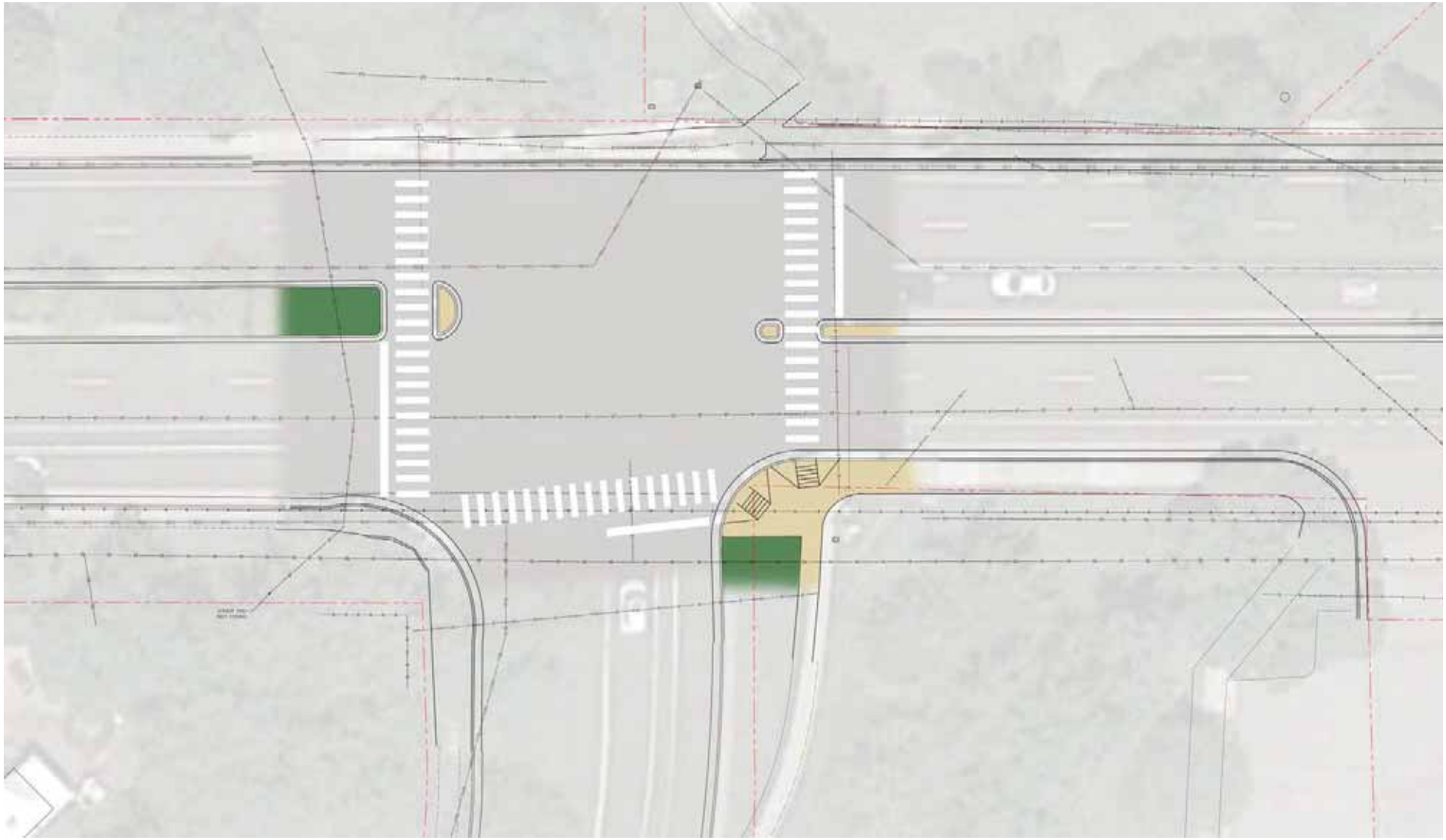



**Figure 13:** Via Appia At-Grade Intersection Improvements

**Figure 14:** Via Appia Left-Turn Storage Lane Improvements

0 20 40 80'

# Eisenhower Drive

Figure 15 shows the conceptual design of recommended improvements.

## INFRASTRUCTURE IMPROVEMENTS

• **Pedestrian Hybrid Beacon:** Install a Pedestrian Hybrid Beacon for eastbound and westbound traffic.

• **Median Extension:** Extend the east side median and include cut-through ramp for crosswalk.

• **Crosswalk:** Refresh crosswalk markings, install stop bars, and add applicable crossing signage.

## ADDITIONAL CONSIDERATIONS

The *Manual on Uniform Traffic Control Devices 2009 (MUTCD)*outlines that marked crosswalks alone, without other measures designed to reduce traffic speeds, shorten crossing distances, enhance driver awareness of the crossing, and/or provide active warning of pedestrian presence, should not be installed across uncontrolled roadways where the speed limit exceeds 40 mph; the roadway has four or more travel lanes; and with a raised median a minimum 15,000 daily vehicles.[2] $2 at the existing uncontrolled Eisenhower Drive crossing, the speed limit is at the 40 mph threshold, there are four travel lanes, and the ADT is 17,200.

Pedestrian crossing guidelines developed for the City and County of Denver[3] and the City of Boulder both would warrant a Pedestrian Hybrid Beacon at this location due to the speed, vehicle ADT, and number of travel lanes at this location.[4]

In the long-term, monitoring of crossing demand is recommended to determine if the Pedestrian Hybrid Beacon is operating acceptably before considering implementation of a grade-separated crossing.

[2] MUTCD (2009), Chapter 3B-19
[3] Denver Uncontrolled Pedestrian Crossing Guidelines (2016); Boulder Pedestrian Crossing Treatment Installation Guidelines (2011)
[4] Boulder County Traffic Counts, 2018.

**Figure 15:** Eisenhower Drive At-Grade Intersection Improvements

0 10 20 40'

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Attachment 5


# Housing Authority

2525 13th Street, Suite 204 • Boulder, Colorado 80304 • Tel: 303.441.3929 Fax: 720.564.2283
**www.bouldercountyhhs.org**


February 25, 2019

Denver Regional Council of Governments
1001 17th Street, Suite 700
Denver, CO 80202

RE: Letter of Support for City of Louisville TIP at South Boulder Road

Dear DRCOG and Boulder County Subregional Forum:

Boulder County Housing Authority supports the City of Louisville's proposed TIP project to make at-grade and/or grade separated improvements along South Boulder Road. This corridor is directly south of the BCHA Kestrel development, and many Kestrel residents with mobility challenges would have improved access to downtown Louisville and other amenities with these improvements.

The project supports a healthy and inclusive community by meeting the needs of increasingly vulnerable populations within this same area. This project will address several transportation challenges, including improved multimodal connections between the north/south parts of the City that provides mobility options for vulnerable populations and multimodal options for all users.

The City and BCHA have been working in partnership to install multimodal transportation infrastructure to ensure connectivity and address the needs of vulnerable populations along South Boulder Road and SH 42. Some examples include working with RTD to extend transit service and installing new sidewalks and crossings in areas where they did not previously exist. Improved connections across South Boulder Road remain a challenge, and this proposed project would help address this need.

Thank you for considering the impact of these projects on our residents.

Sincerely,

DocuSigned by:

Frank L. Alexander
Director, Boulder County Housing Authority

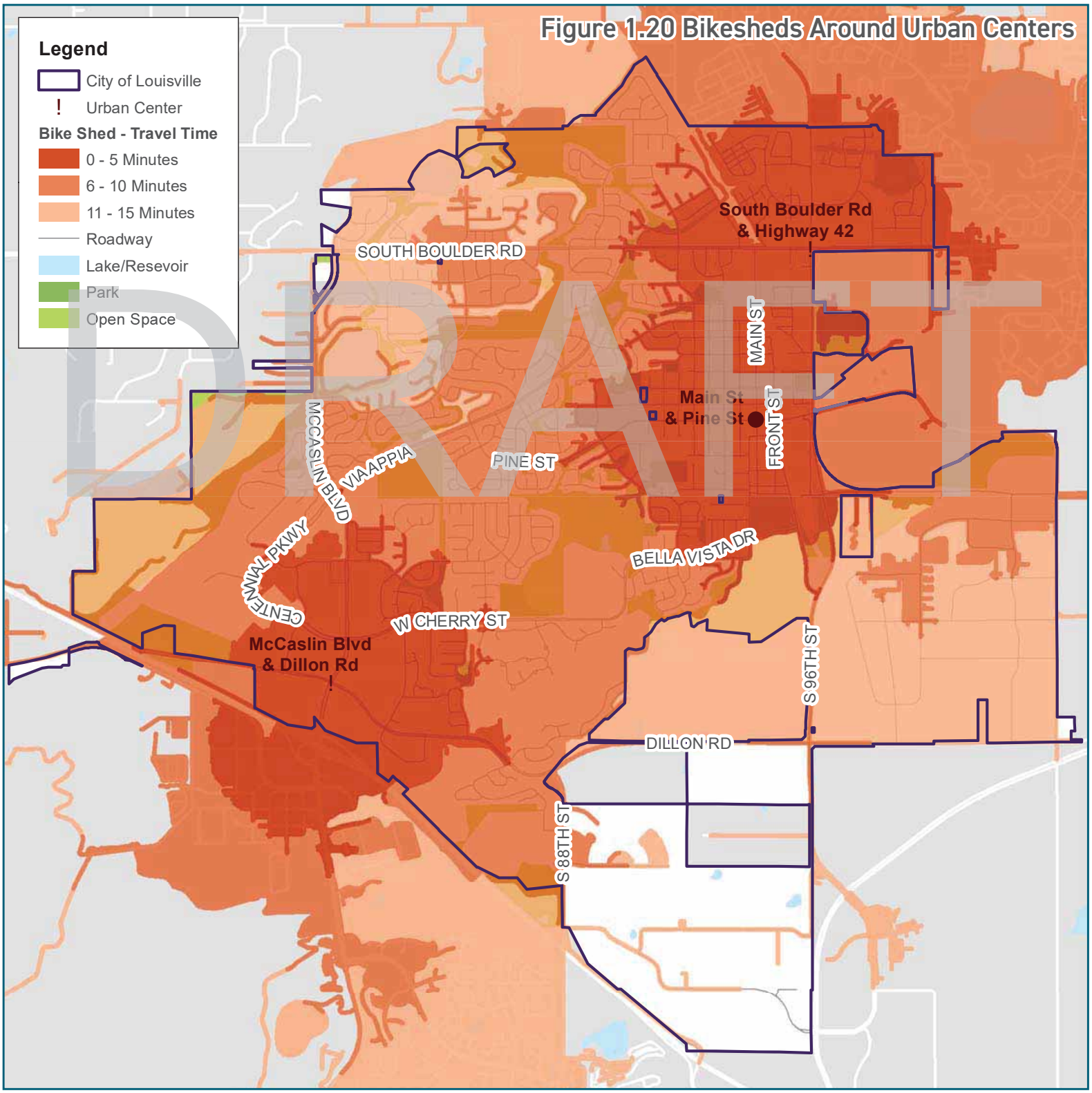
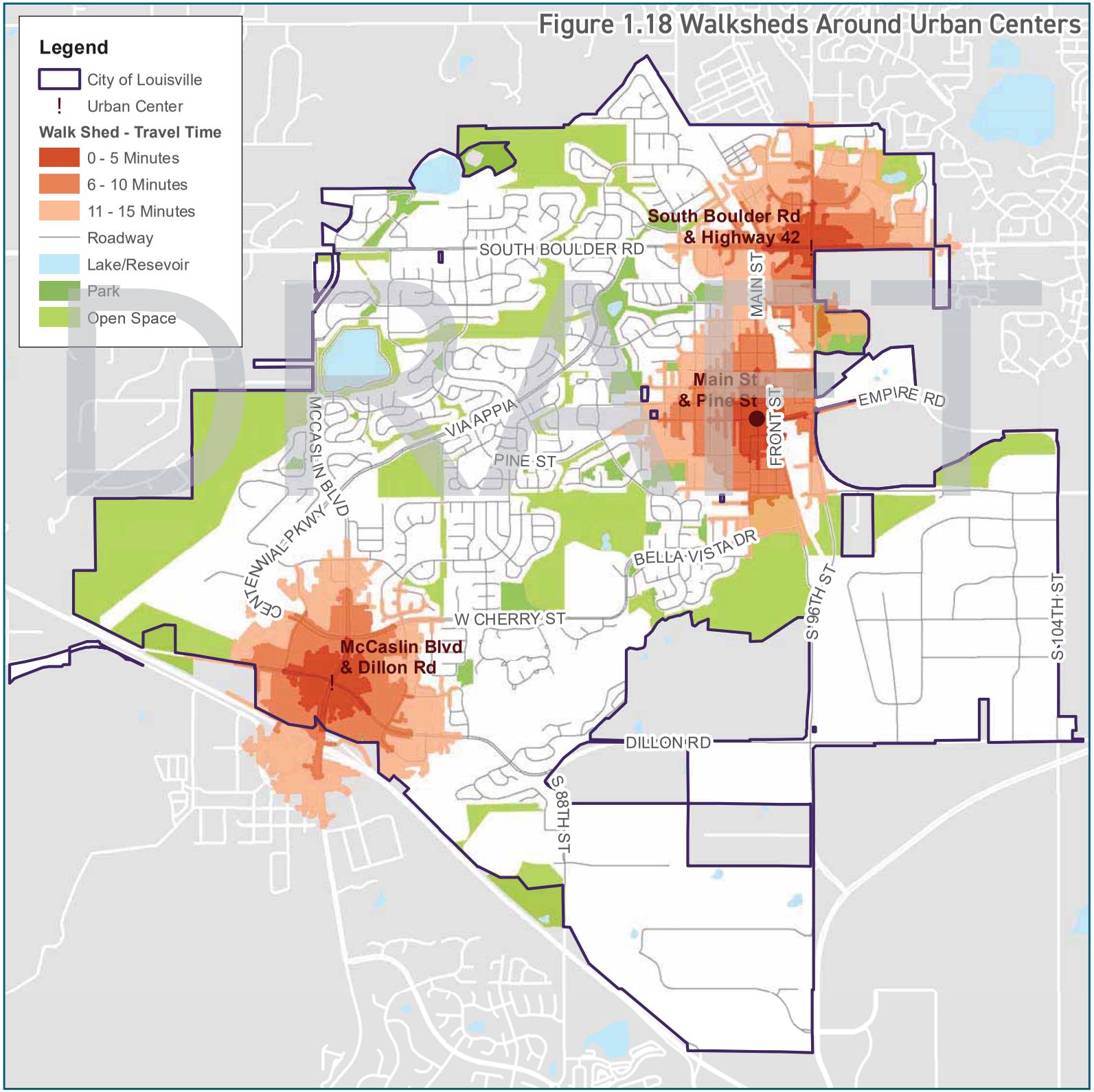



Figure 1.20 Bikesheds Around Urban Centers

## Figure 1.18 Walksheds Around Urban Centers



# APPLICANT SUMMARY PAGE

| ELIGIBLE ENTITY | | |
|---|---|---|
| Name: City of Louisville | | |
| Mailing Address: 749 Main Street, Louisville, CO 80027 | | |
| Applicant Contact Name: Joliette Woodson | | Title: Engineer |
| Telephone: 303-335-4603 | Email: joliettew@louisvilleco.gov | Are you the Primary Contact? Yes |
| Do you currently have an open GOCO grant? If yes, please provide grant number(s): No<br>REQUIRED: Contact GOCO staff prior to completion of application<br><br>Yes – conversation with Madison Brannigan on 9/14/2017 and submitted for pre-review. | | |

| PARTNER INFORMATION (IF APPLICABLE) | | |
|---|---|---|
| Name: | | |
| Mailing Address: | | |
| Partner Contact: | | Title: |
| Telephone: | Email: | Are you the Primary Contact? |

| PROJECT INFORMATION | |
|---|---|
| Project Title: South Boulder Road Ped. & Bicycle Connectivity Feasibility Study and Plan | |
| Grant Request ($75,000 max.):$75,000 | Total Project Cost: $122,000 |
| Percent of overall match (% of total project cost): 39% | Percent of Cash match (% of total project cost):39% |
| County of Service: Boulder | City (please include cross streets): Louisville (South Boulder Road and Via Appia to SH 42) |
| Brief Project Description (**In 100 words or less**), describe the proposed project and how it will benefit your community:<br><br>The City of Louisville is requesting $75,000 of GOCO planning funds to develop a feasibility study and plan for improved pedestrian and bike connections across one of its busiest thoroughfares - South Boulder Road. The vision of this project is to establish an access plan for pedestrian and bicycle improvements at key north/south connection points across South Boulder Road between Highway 42 and Via Appia, to improve pedestrian access to parks, open space, recreation and senior services, local trails, regional trails, community gardens, commuter routes, schools, transit access and commercial areas, including grocery stores.<br>**This must be the first page of the application. No cover pages.** | |

## APPLICATION CHECKLIST

Please upload all attachments to the GOCO application portal at http://tinyurl.com/PlanningGOCOPortal
**All application attachment samples and templates can be found at** goco.org/localgov
**Please submit a single PDF file for your project *in the same order as listed below*:**

☒ Applicant Information Page

☒ Application Checklist

☒ Signed Resolution from Governing Body

☒ Draft Intergovernmental Agreement, or other contract with the project partner or a signed letter of support from project partner (if necessary) **N/A**

☒ Budget Form (letters from cash contributing sponsors to verify funding are recommended) **N/A**

☒ Preliminary Timeline Estimate

☒ Response to Selection Criteria Narrative Questions (12-point font, responses **may not exceed 7 pages**)

☒ Attachments to Selection Criteria Narrative:

- ☒ Letters of support (immediately following the Selection Criteria Narrative) – **must be submitted with application, do not mail to GOCO**
- ☒ Map(s) identifying the project location (Using Google Earth or Google Maps)
- ☒ Site Photos
- ☒ Documentation of any opposition to the project, if applicable

**I certify that I am authorized to sign on behalf of the applicant and that if awarded a Great Outdoors Colorado grant for this project, the applicant and its partners will comply with GOCO's requirements for local government grant administration, including matching, financial reporting, and general requirements. I certify that neither condemnation nor the threat of condemnation is or will be a part of this project.**

Heather Reisig Date: 10/31/17

*An authorized person must sign here, such as the applicant's executive director, county commission chairperson, or city council chairperson.*

Printed Name and Title: HEATHER REISIG, ACTING CITY MANAGER

**RESOLUTION NO. 57**
**SERIES 2017**

**A RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A PLANNING GRANT FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND AND THE COMPLETION OF A SOUTH BOULDER ROAD PEDESTRIAN CONNECTIVITY STUDY**

**WHEREAS**, the City of Louisville supports the Great Outdoors Colorado grant application for the South Boulder Road Pedestrian Connectivity Study And if the grant is awarded, the City of Louisville supports the completion of the project.

**WHEREAS**, the City of Louisville has requested $75,000 from Great Outdoors Colorado to complete a plan to identify conceptual design alternatives for improved pedestrian improvements including but not limited to underpasses and/or at-grade intersection improvements along South Boulder Road

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE THAT:**

1. The City Council of the City of Louisville strongly supports the application and has appropriated matching funds for a grant with Great Outdoors Colorado.

2. If the grant is awarded, the City Council of the City of Louisville strongly supports the completion of the project

3 The City Council of the City of Louisville authorizes the expenditure of funds necessary to meet the terms and obligations of any Grant awarded.

4. If the grant is awarded, the City Council hereby authorizes the City Manager to sign the grant agreement with Great Outdoors Colorado.

5 This resolution to be in full force and effect from and after its passage and approval

**PASSED AND ADOPTED** this 17th day of October, 2017

By _____
Robert P. Muckle, Mayor

Attest: _____
Meredyth Muth, City Clerk

CITY OF LOUISVILLE SEAL COLORADO

# Project Budget

| | Source of Funds | Date Secured | | GOCO Grant Request | Applicant Match ($) | Partner Match ($) | Total Funding ($) |
|---|---|---|---|---|---|---|---|
| **CASH** | | | | | | | |
| | GOCO Grant Request | | | $75,000 | | | $75,000.00 |
| | City of Louisville | Jan-17 | | | **47,000.00** | | $47,000.00 |
| | [List Partner] | | | | | | $0.00 |
| | [List Partner] | | | | | | $0.00 |
| **IN-KIND** | | | | | | | |
| | | | | | | | $0.00 |
| | [List Source] | | | | | | $0.00 |
| | [List Source] | | | | | | $0.00 |
| **TOTAL SOURCE OF FUNDS** | | | | **$75,000.00** | **$47,000.00** | **$0.00** | **$122,000.00** |

| **CASH** | **Use of Funds** | **Number of Units** | **Cost Per Unit** | **GOCO Funds** | **Applicant Funds** | **Partner Funds** | **Total Funding ($)** |
|---|---|---|---|---|---|---|---|
| **CATEGORY 1** | | | | | | | $0.00 |
| | | | | | | | $0.00 |
| *Feasibility Study Consultant -* | Complete SBR Connectivity Study | 1.00 | $50,000 | 5,000.00 | 45,000.00 | | $50,000.00 |
| *Design Consultant* | Design for preferred alternative(s) | 1.00 | 70,000.00 | 70,000.00 | | | $70,000.00 |
| | | | | | | | |
| | | | | | | | $0.00 |
| **USE OF FUNDS - CASH SUBTOTAL** | | | | **$75,000.00** | **$45,000.00** | **$0.00** | **$120,000.00** |

| **IN-KIND** | **Use of Funds** | **No. of Units / Hours / Acres** | **Cost Per Unit / Hour / Acre** | **GOCO Funds** | **Applicant Funds** | **Partner Funds** | **Total Funding ($)** |
|---|---|---|---|---|---|---|---|
| **Professional Services** | | | | | | | $0.00 |
| **Materials** | | | | | | | $0.00 |
| *vendor/service provider* | | | | | | | $0.00 |
| **Equipment** | | | | | | | $0.00 |
| *vendor/service provider* | | | | | | | $0.00 |
| **Land** | | | | | | | $0.00 |
| *contributor* | | | | | | | $0.00 |
| | **SUBTOTAL** | | | **$75,000.00** | **$0.00** | **$0.00** | **$120,000.00** |
| | ***Contingency 10% (not required, cannot be GOCO funds)*** | | | | **$2,000** | **$0** | **$2,000** |
| | **TOTAL PROJECT COST** | | | **$75,000.00** | **$47,000.00** | **$0.00** | **$122,000.00** |

**Remember: the Total Project Cost row must equal the Total Source of Funds row above**

## CALCULATION OF MATCH REQUIREMENTS

| Item | Explanation | Requirement | Actual | Meets Requirement? |
|---|---|---|---|---|
| Minimum Match | 25%/Total Costs | $30,500 | $47,000 | Yes |
| Minimum Cash Match | 10%/Total Costs | $12,200 | $45,000 | Yes |

## CALCULATION OF GOCO %

| | |
|---|---|
| GOCO % of Total Costs | 61.48% |

GOCO Planning Grant -
City of Louisville South Boulder Road Pedestrian and Bike Connectivity Feasibility Study and Plan

| **Preliminary Timeline Estimate** | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | | |
| **Project Element** | **Jan-18** | **Feb-18** | **Mar-18** | **Apr-18** | **May-18** | **Jun-18** | **Jul-18** | **Aug-18** | **Sep-18** | **Oct-18** | **Nov-18** | **Dec-18** | **Jan-19** | **Feb-19** | **Mar-19** | **Apr-19** | **late 2019 - 2020** |
| Develop RFP | | | | | | | | | | | | | | | | | |
| Publish RFP | | | | | | | | | | | | | | | | | |
| Consultant Selection | | | | | | | | | | | | | | | | | |
| **Feasibility Study** | | | | | | | | | | | | | | | | | |
| Public process | | | | | | | | | | | | | | | | | |
| Identification and analysis of alternatives | | | | | | | | | | | | | | | | | |
| Approval/advance alternatives | | | | | | | | | | | | | | | | | |
| **Design (depending on # of alternatives)** | | | | | | | | | | | | | | | | | |
| Technical review | | | | | | | | | | | | | | | | | |
| Design and cost report | | | | | | | | | | | | | | | | | |
| **Implementation** | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |

1. **Plan Type: South Boulder Road Pedestrian and Bicycle Connectivity Feasibility Study and Plan (the Plan)**

Close to Denver and overlooking the flatirons of Boulder County, the City of Louisville is known for its parks, open spaces, trails and recreation opportunities. Ensuring that the community and visitors alike can easily access these resources within this compact city is an ongoing challenge. The City of Louisville is requesting GOCO planning funds to develop a feasibility study and plan for improved pedestrian and bike connections across one of its busiest thoroughfares - South Boulder Road.

The vision of this project is to establish a pedestrian and other non-vehicular access plan for pedestrian and bicycle improvements at key north/south connection points across South Boulder Road between Highway 42 and Via Appia (See map 1: Project location), to improve pedestrian access to parks, open space, recreation and senior services, local trails, regional trails, community gardens, commuter routes, schools, transit access and commercial areas, including grocery stores.

If this grant is awarded, we will be able to complete a study and create a plan that will help the City of Louisville achieve the following goals:

- Louisville residents will be better connected to parks, open spaces, recreational amenities, trails, regional trails and other community assets on both the north and south sides of South Boulder Road using safe, pedestrian crossings at South Boulder Road.
- Residents and visitors will have better access to local and regional trails on the north and south sides of South Boulder Road.
- Children will be safer and will be more inspired to walk and bike to school, and bike commuters can easily and safely make key connections on commuter routes.
- The health and well-being of residents will be enhanced through increased linkages to parks, open spaces, recreation amenities, community gardens and trails, as well as schools.

Once the Plan is completed, and we are able to implement the recommendations, we will be able to achieve the following desired outcomes:

- More individuals and families, including children and seniors, will have safe non-vehicular access to our parks, open space, recreation and trails system.
- More children will travel to school in an active manner (walking or biking).
- Improved social and physical health of children, including increased connectivity to low-income affordable housing to parks, open spaces, community gardens and trails as well as safe connections to schools.

The Plan will utilize City planners and engineers and a consultant team to identify suitable connectivity options and create a 10% design plan to improve pedestrian connections from the north and south sides of South Boulder Road to connect parks, open spaces, trails, housing, schools and other destinations. The Plan will include a public process to evaluate the alternatives identified through the existing plans, and develop more detailed design plans (30%) for the top alternative(s).

The City of Louisville has 21,000 residents, with high-density residential areas both directly north and south of South Boulder Road. (See map 2: Residential Density Map) South Boulder Road is a main arterial connecter for

south Boulder to Louisville, and Louisville to Lafayette. The road is heavily travelled with average daily traffic counts between approximately 17,000 and 27,000 vehicles, depending on the intersection within the planning area. The speeds on South Boulder Road within the planning area average between 30 – 39 miles per hour, with the 85% speeds between 35 – 44 MPH. (See map 3: Traffic and Speed Map, and Photos)

Many parks, open spaces, trails and recreation amenities surround the South Boulder Road area. Cottonwood Park, Lawrence Enrietto Park, Memory Square Park and public swimming pool, Miners Field, Louisville Community Park, to name a few, are all located within one mile of the planning area. Large Open Space parcels, including the Harney Lastoka Open Space, Warembourg Open Space (see photos) and Coyote Run Open Space are all within .5 – 1 mile of the Plan area. The soon-to-be remodeled Louisville Recreation Center (which currently receives 271,478 total visits per year) and the Louisville Sports Complex, which hosts baseball/softball games, practices and tournaments, as well as ultimate Frisbee and flag football (receives an estimated 25,000 users and visitors during the outdoors sports season), are in direct proximity to the Plan area.

The Plan will also establish an important connection for regional trail access. The Coal Creek Trail, a regional trail connecting all the Southeast Boulder County communities is located just 1 mile from the intersection of South Boulder Road and Main Street. The trail is a 14-mile regional trail linking the Cities of Louisville, Lafayette, Broomfield, and the Towns of Erie and Superior. This trail then connects with other Boulder County and City of Boulder Open Spaces, serving as a gateway to plethora outdoor recreation opportunities for the entire region.

In addition, there are two schools within approximately ½ mile of South Boulder Road and in the planning area, Louisville Middle School and Louisville Elementary School. Louisville Elementary school enrollment is 584 students and Louisville Middle School enrollment is 633 students. Coal Creek Elementary School is also within .25 mile of South Boulder Road, but is located just west of the planning area.

Finally, numerous residential neighborhoods and primary employment centers are on either side of South Boulder Road. The small, compact nature of the City of Louisville fosters an important synergy between economic development on Main Street and surrounding commercial areas and our parks, open space and trails systems. Residents are generally able to bike or walk throughout town, enjoy the many parks and trails either before or after stopping for a meal or beverage. Employees who live within miles of town are able to bike or walk to work, and enjoy local parks, open space, and trails during breaks or after work. However, there is a clear lack of connection for north-south pedestrian movement along the South Boulder Road corridor.

The Plan will draw from other existing City plans, including but not limited to the 2013 Comprehensive Plan, Highway 42 Plan, Parks, Recreation, Open Space, and Trails Comprehensive Master Plan, the 2016 South Boulder Road Small Area Plan, and 2015 Open Space, Parks, and Trails Wayfinding Plan, and the City of Louisville Sustainability Plan. Each of these plans included a public process, and in some fashion contemplated the need for improved pedestrian and bike connections. Most of these efforts were focused on city-wide needs, but many of them identified the specific issues associated with South Boulder Road connectivity.

Some common themes that have emerged through these plans include:

- Improved bike and pedestrian safety and access, particularly at certain street crossings, and continuity for the trails within Louisville to improve user experience and increase the number of trail users.
- Improving the City's Walk Score – which was identified as only 37 out of 100 in the 2016 Sustainability Action Plan. This means that the community is car-dependent, and that most errands require a car. The plan includes a goal to "Encourage environmentally sustainable transportation choices and infrastructure, and support healthy lifestyles."
- The Parks and Open Space Master Plan identifies that future trails are needed to improve bike and pedestrian connectivity within Louisville to important elements such as Downtown Louisville, and provide access and connections to proposed and existing regional trail systems and adjacent communities.
- The 2016 South Boulder Road small area plan identified a need for improved safety and connectivity of students to Coal Creek Elementary and Louisville Middle Schools, as SBR bisects the pedestrian and bicycle corridors. Improved connections will encourage more students to walk or ride their bikes to school, exposing them to more time outdoors and increasing physical activity.
- Improved bike and pedestrian linkages between numerous neighborhoods, including the newly built 200-unit Kestrel affordable housing development, and parks, open spaces and trails. Improved access would provide greater opportunities to connect families and children to open spaces, as well as to encourage physical activity.

The plan with the most specific focus on this area, the 2016 South Boulder Road small area plan, engaged the public in a dialog about the community character, land uses and public infrastructure priorities in the South Boulder Road area. As an extension of the comprehensive plan, the SBR small area plan is a policy document, and does not include design or engineering for any of the recommendations contained within.

One of the key principles of this plan was to provide for safer and convenient connections across South Boulder Road for bikes and pedestrians. It outlined the need for significant public improvements to pedestrian and bicycle crossings to connect key trails in the Louisville Open Space and Trails system: Kestrel and North End Trail, Cottonwood Trail, and Coyote Run Trail. Also identified in the plan are desires to connect Steel Ranch Park, Cowboy Park, Centennial Park, and Cottonwood Parks. The plan states "There are several trails leading into the study area, but few of them connect through the area....crossing South Boulder Road itself remains difficult."

While the Small Area Plan provided recommendations for public improvements, it did not evaluate the feasibility of each of the proposed improvements, nor did it determine which improvements were best suited to improve connectivity. Instead, it gathered a series of recommendations that could be considered to address the connectivity challenges. The Plan will build upon that work and determine the preferred alternatives and their feasibility.

**2. Planning Process:**

The City of Louisville will prepare a Request for Proposals for public release to identify the most capable consultant to assist with the development of the study and the Plan. Once a suitable company is selected, based on the criteria established by the City and with input from key stakeholders, the City will contract with the company to begin the planning process.

The planning process will include several steps, and will utilize various technologies, data collection and outreach strategies to foster community engagement. The Plan will include the development of a project team within the City of Louisville, the detailed/refined scope of the planning process and a plan for public engagement. There will also be the need to engage any adjacent property owners, to get their feedback and in the event that any access or easements would be needed for any potential improvements.

The Plan will include a process to identify alternatives, evaluate the feasibility of the potential alternatives, and determine the cost and technical feasibility for the top one to two alternatives to improve connections. The plan will be shared with any relevant Boards and Committees, and include consideration and final approval of the alternatives by City Council. Specific tasks in the planning process may include:

**Formation of staff/consultant team and development work plan:**

- Development of detailed planning process and work plan.
- Kick-off meeting with internal city project team.
- Ongoing consultant/internal team meetings.

**Identification and analysis of possible connectivity alternatives:**

- A community design workshop (or workshops) with invited resident stakeholders to identify alternatives on large format mapping. This should include a walking tour of the corridor during peak hours.
- Collection and synthesis of data to inform the alternatives. This might include traffic information, pedestrian/bicycle use patterns, initial assessment for access feasibility, etc.
- Staff review of proposed alternatives.
- Community review of draft alternatives.
- On-line visual survey of the draft alternatives and evaluations.
- Meeting with technical stakeholders including but not limited to the City of Louisville Urban Drainage Flood Control District and BNSF.
- Presentation at a City Council and other relevant boards, such as the Open Space Board, summarizing alternatives, community input and possible next steps.

**Determine preferred alternatives:**

- Collection of data and technical assumptions for each alternative.
- Evaluation of feasibility of alternatives.
- Determine specific number and locations of preferred alternatives.
- Determine cost of alternatives.
- Determine technical and financial feasibility of preferred alternatives.
- Approval of City Council for advancing preferred alternatives.

**Design of preferred alternatives:**

- Depending on the number, scale and estimated cost range of the preferred alternatives, conduct design work to 30% for construction of one or more preferred alternatives.

- Develop a plan for next steps for construction and implementation of preferred alternatives, including potential funding sources, estimated timeline, etc.

The deliverables of the project will include a study of options and a final plan for the implementation of connectivity infrastructure along South Boulder Road, including initial design for preferred alternatives. The Plan will include a summary of technical feasibility of the preferred alternatives as well as funding opportunities that might support the full implementation of the connectivity alternatives.

A draft plan with alternatives should be complete by November 1, 2018. However, the time necessary to conduct preliminary design work on any preferred alternative(s) may take longer, and could be completed as late as May 1, 2019. A complete estimated timeline is attached.

**3. Needs/Challenges:**

Our most significant challenge around this issue has been a lack of detailed analysis and a thorough study of alternatives necessary to advance a viable strategy for improved connectivity within our community. We have a limited amount of funding to complete the study and design work in our budget, so GOCO planning funds would greatly assist in helping to identify viable alternatives and what is technically and financially feasible. If we do not receive planning grant funds, we will do an initial feasibility study and wait until we have the budget to determine priorities and do initial design. We will delay any conversations about implementing any of the options, as we won't have the details necessary to fully understand cost and technical feasibility. The community is deeply engaged in moving something forward, and that will be delayed.

We also have differing views within the community about the type and location of improvements that could help address our pedestrian connectivity needs. Completing a thorough study and developing a thoughtful plan, along with public input, will result in the most effective and cost-effective placements for improvements to accomplish our community-wide goals. This study will help us determine the alternatives, as well as the technical feasibility and cost for implementing solutions.

Key stakeholders will be included in the planning process, such as residents, community groups including HOAs and other neighborhood groups, neighboring businesses and land owners, Boulder Valley School District and other local school reps, downtown business groups and staff from Parks, Rec and Open Space, Planning and Public Works. This process will help the community understand the best solutions and placement for improvements, and involve them in those decisions.

Finally, we anticipate there will be technical challenges in siting certain improvements, like an underpass. There will undoubtedly be overlap with utilities, BNSF railroad, property owners and other infrastructure considerations. This study and planning process will allow us to evaluate all the technical elements of the proposed alternatives in order to determine the impacts, and the cost of implementation.

**4. Implementation:**

Once the Plan is complete, the City of Louisville will have one, possibly more, alternatives it wishes to advance to construction that will improve the connectivity for City residents north and south of South Boulder Road. The implementation of these alternatives will depend on several factors, including the project costs, CIP schedules and planning, and other factors that may be identified through the planning process.

The City of Louisville and its residents have identified the need for improved connectivity north and south of South Boulder Road through numerous plans. There are many stakeholders who have an interest in the issue and who are committed to supporting the implementation of well-vetted and supported alternatives. The City is also completing a Transportation Master Plan, and the alternatives identified in the Plan will be included among the Transportation Master Plan priorities. Given that, the City will consider prioritizing any construction project as a part of its regular five-year CIP planning process for the 2019-2024 budget years.

The City has also initiated discussions with the Boulder Valley School District and the CDOT Safe Routes to School program, which could provide a funding source for construction of any alternatives that would support connections to and from schools located near South Boulder Road. In addition, we will explore DRCOG funding options that could improve connectivity for bicyclists and commuters, including transportation demand funding, and any funds that could be appropriate for regional trail connections.

The Plan will have a significant impact on our organization and community as it will provide a concrete plan for connectivity options that we may implement, and that reflect the desires of the public, our existing Parks, Rec and Open space plan, as well as other guiding documents. It will fulfill a longstanding community need to ensure safety of individuals, families and children seeking better access across South Boulder Road to our City Open Spaces, Parks, Recreation amenities, community gardens and other resources. It will identify opportunities to connect bicycle commuters to businesses, transit centers and employment centers, as well as regional trails. And it will provide safer connections for children walking and biking to schools. It will improve the connectivity of low-income housing to community amenities. Finally, it will create a road-map for reducing vehicle travel, encouraging more individuals, families and children to walk and bike to their local destinations.

Please use this page as a section header and include **up to seven** letters of support

# LETTERS OF SUPPORT

Attached Letters of Support:

City of Louisville Open Space Advisory Board
Boulder County Housing Authority
Boulder Valley School District Safe Routes to School program coordinator
Pearl Izumi
Louisville DBA
Community Group

City of Louisville
PARKS & RECREATION

October 11, 2017

TO: Great Outdoors Colorado
303 E. 17th Avenue, Suite 1060
Denver, Colorado 80203

FROM: City of Louisville Open Space Advisory Board

RE: Letter of Support for GOCO Planning Grant for South Boulder Road Crossing

Dear GOCO Planning Grant Review Team:
As members of the Open Space Advisory Board (OSAB), we volunteer our time to preserve and protect open space, explore options for increasing trail connectivity, and provide opportunities to connect our residents - adults and children - to public spaces and environmental programs. Because of these values, we are writing to support the City of Louisville's request for a GOCO Planning Grant which will examine options for providing a safe crossing of South Boulder Road.
Numerous existing City of Louisville planning documents and public input support the need for such a connection - including the 2012 Parks, Recreation, Open Space and Trails Comprehensive Master Plan, the 2015 Open Space, Parks & Trails Wayfinding Plan, and the 2016 South Boulder Road Small Area Plan.
South Boulder Road is a major divider in Louisville; citizens can easily access trails and public lands on both the north and south sides of South Boulder Road, but crossing the multi-lane, high volume, and high speed road itself can be difficult and (for children) actively dangerous, even at traffic lights. Adding a safe crossing at South Boulder Road will enhance trail connectivity allowing for increase use and safety for:

- Residents connecting to primary trails developed in the Wayfinding Plan, spearheaded by OSAB, allowing trail users to travel throughout the City and connect to regional trails
- Students of Coal Creek Elementary and Louisville Middle Schools to use the off-street trail network to travel to school
- Residents of the Kestrel, North End, and Takoda Developments to access public lands south of South Boulder Road including the Kerr Community Gardens and 7th Generation Farm at Harney Lastoka Open Space
- Adults commuting via our trail network throughout Louisville and to Lafayette, Boulder, and Denver

Louisville residents cherish the local trails and public lands because they allow citizens to reconnect with nature, provide safe areas for kids to explore wild spaces close to home, and help our citizens reach their health and fitness goals. For these reasons, we ask that you consider the City's Grant request.

Sincerely,
The Open Space Advisory Board

Helen Moshak

Helen Moshak, Open Space Advisory Board Chair

Landon Hilliard
Safe Routes to School Coordinator
BVSD Transportation Department
6500 Arapahoe Avenue
Boulder, Colorado 80303
720-561-5931
landon.hilliard@bvsd.org

October 23, 2017

Re: Support of application for the South Boulder Road Connectivity Plan in Louisville

Dear GOCO Grant Review Team:

I am writing on behalf of the Transportation Department of the Boulder Valley School District to express our support of the application of City of Louisville for a GOCO Planning Grant to complete the South Boulder Road Connectivity Plan. When completed, this plan will provide a blueprint that will substantially enhance connections between the parks, open spaces, schools, trails, and recreation centers in Louisville.

In my position as the coordinator of Safe Routes to School activities in the school district, I understand the significance of providing satisfactory conditions for walking and bicycling. As a heavily travelled road with significant vehicular traffic and frequent congestion, South Boulder Road does not provide optimal options for bike and pedestrian mobility and trail connections. By creating safe and viable north-south connections across the road students, staff, and parents will gain suitable access to all parts of town including nearby Louisville Middle School.

The plan is greatly needed as a way to build upon and improve the existing conditions. The City of Louisville has established a strong parks and open space system with significant investments in resources that get people outdoors and physically active. Improved connections across South Boulder Road will allow more people to safely access these resources and enhance the overall health of residents and the community as a whole.

We are delighted to support the City of Louisville in developing the South Boulder Road Connectivity Plan. Please feel free to contact me should you have questions about the benefits that the plan will bring.

Thank you for your consideration.

Sincerely,

Landon Hilliard
CC: Albert Samora, Director of Transportation
Rob Price, Assistant Superintendent of Operational Services

November 1, 2017

Dear GOCO Grant Review Team:

This letter is written on behalf of the South Boulder Road Underpass Working Group. We are a group of Louisville citizens collaborating with staff and city council to build safer connection across South Boulder Road. You can learn more about our group and the results of our recent survey on our Facebook page.

We would like to express our support for the City of Louisville's request for a GOCO Planning Grant to complete the South Boulder Road Connectivity Plan. When completed, this plan will provide a blueprint to greatly enhance connections between the parks, open spaces, trails, community gardens, recreation and senior amenities within our community.

Creating safe and viable north-south connections across South Boulder Road is critical to providing our residents with better access to the wide range of parks, open spaces and trails in Louisville. As a heavily travelled road with significant traffic and frequent congestion, the current connections do not provide optimal options for bike and pedestrian mobility and trail connections. This Plan is greatly needed, as it will provide the City with a viable plan to improve upon the existing conditions.

The City of Louisville has established a strong parks, recreation and open space system, providing significant investments in resources that get people outdoors and improve their quality of life. The residents place a high value on these resources and amenities. Improved connections across South Boulder Road will allow more people to safely access these resources, and enhance the overall health of our residents and the community as a whole.

Please consider the positive impact that this grant will have on the residents of Louisville, Colorado by helping to connect more people to our parks, trails and open spaces.

Sincerely,

Carlos Hernandez

South Boulder Road Underpass Working Group

https://www.facebook.com/South-Boulder-Road-Underpass-Working-Group-842300359183693/

PEARL iZUMi

October 10, 2017

Dear GOCO Grant Review Team:

We are writing to express our support for the City of Louisville's request for a GOCO Planning Grant to complete the South Boulder Road Connectivity Plan. When completed, this plan will provide a blueprint to greatly enhance pedestrian and cycling connections between the parks, open spaces, trails, community gardens, recreation and senior amenities within our community.

As a business located in Louisville, CO and focused on cycling product innovation, we greatly value Louisville's ongoing commitment to increased access to trails, open spaces, regional trails and bikeways. Creating safe and viable north-south connections across South Boulder Road is critical to providing our residents, employees, and cyclists from across the region with better access to the wide range of parks, open spaces and trails in Louisville. As a heavily travelled road with significant traffic and frequent congestion, the current connections do not provide optimal options for bike and pedestrian mobility and trail connections. This Plan is greatly needed, as it will provide the City with a viable plan to improve upon the existing conditions.

Like GOCO, our company is dedicated to increasing opportunities for people to get outdoors and building the next generation of cyclists. The City of Louisville has established a strong parks, recreation and open space system, providing significant investments in resources that get people outdoors and improve their quality of life. We place a high value on these resources and amenities, and believe that improved connections across South Boulder Road will allow more people to safely access these opportunities.

Please consider the positive impact that this grant will have on the businesses and residents of Louisville and beyond by supporting this request for GOCO funding.

Sincerely,

Chris Sword
President, PEARL iZUMi

101 South Taylor Avenue
Louisville, CO 80027
P: 303.460.8888
F: 303.466.4237
www.pearlizumi.com

Louisville Downtown Business Association
1700 Lincoln Street, Suite 2000
Denver, CO  80203

October 25, 2017

Dear GOCO Grant Review Team:

We are writing to express our support for the City of Louisville's request for a GOCO Planning Grant to complete the South Boulder Road Connectivity Plan. When completed, this plan will provide a blueprint to greatly enhance pedestrian and cycling connections between the parks, open spaces, trails, community gardens, recreation and senior amenities within our community.

The businesses located in Downtown Louisville greatly value Louisville's ongoing commitment to centrally located trails, open spaces, regional trails and bikeways. These amenities are a draw for visitors, tourists, employees and community members, inviting more people downtown and serving as a significant economic driver within our community. The compact nature of our small town means that parks, open spaces, trails and other recreation opportunities are all within close distance to local businesses. However, crossing South Boulder Road can be a barrier for pedestrians and walkers. Creating safe and viable north-south connections across South Boulder Road is critical to providing our residents and employees with better access to the wide range of parks, open spaces and trails in Louisville.

In our small-town, families can ride along the Coal Creek Trail, stop for dinner and ice cream, and ride home. Visitors and residents alike appreciate that we have established a strong system of parks, recreation, trails and open spaces, which enhances our small-town character and improves our quality of life. We place a high value on these resources and amenities, and their inter-relatedness with local business, and believe that improved connections across South Boulder Road will allow more people to safely access this broad range of amenities within our community.

Please consider the positive impact that this grant will have on the businesses and residents of Louisville and beyond by supporting this request for GOCO funding.

Sincerely,

Downtown Business Association

Boulder County

# Housing Authority

2525 13th Street, Suite 204 • Boulder, Colorado 80304 • Tel: 303.441.3929 Fax: 720.564.2283
www.bouldercountyhhs.org

October 16, 2017

Dear GOCO Grant Review Team:

This letter is written on behalf of Kestrel I, LLC to express our support for the City of Louisville's request for a GOCO Planning Grant to complete the South Boulder Road Connectivity Plan. When completed, this plan will provide a blueprint to greatly enhance pedestrian and bike connections between the parks, open spaces, trails, community gardens, recreation and senior amenities within our community.

Creating safe and viable north-south connections across South Boulder Road is critical to providing our residents with better access to the wide range of parks, open spaces and trails in Louisville. This is especially important given the Kestrel neighborhoods focus on affordability and sustainability. As a heavily travelled road with significant traffic and frequent congestion, the current connections do not provide optimal options for bike and pedestrian mobility and trail connections, which are critical to the population we serve. This Plan is greatly needed, as it will provide the City with a viable plan to improve upon the existing conditions.

The City of Louisville has established a strong parks, recreation and open space system, providing significant investments in resources that get people outdoors and improve their quality of life. Our residents place a high value on these resources and amenities. Improved connections across South Boulder Road will allow more people to safely access these resources, and enhance the overall health of our residents and the community as a whole.

Please consider the positive impact that this grant will have on the residents of Louisville, Colorado by helping to connect more people to our parks, trails and open spaces.

Sincerely,

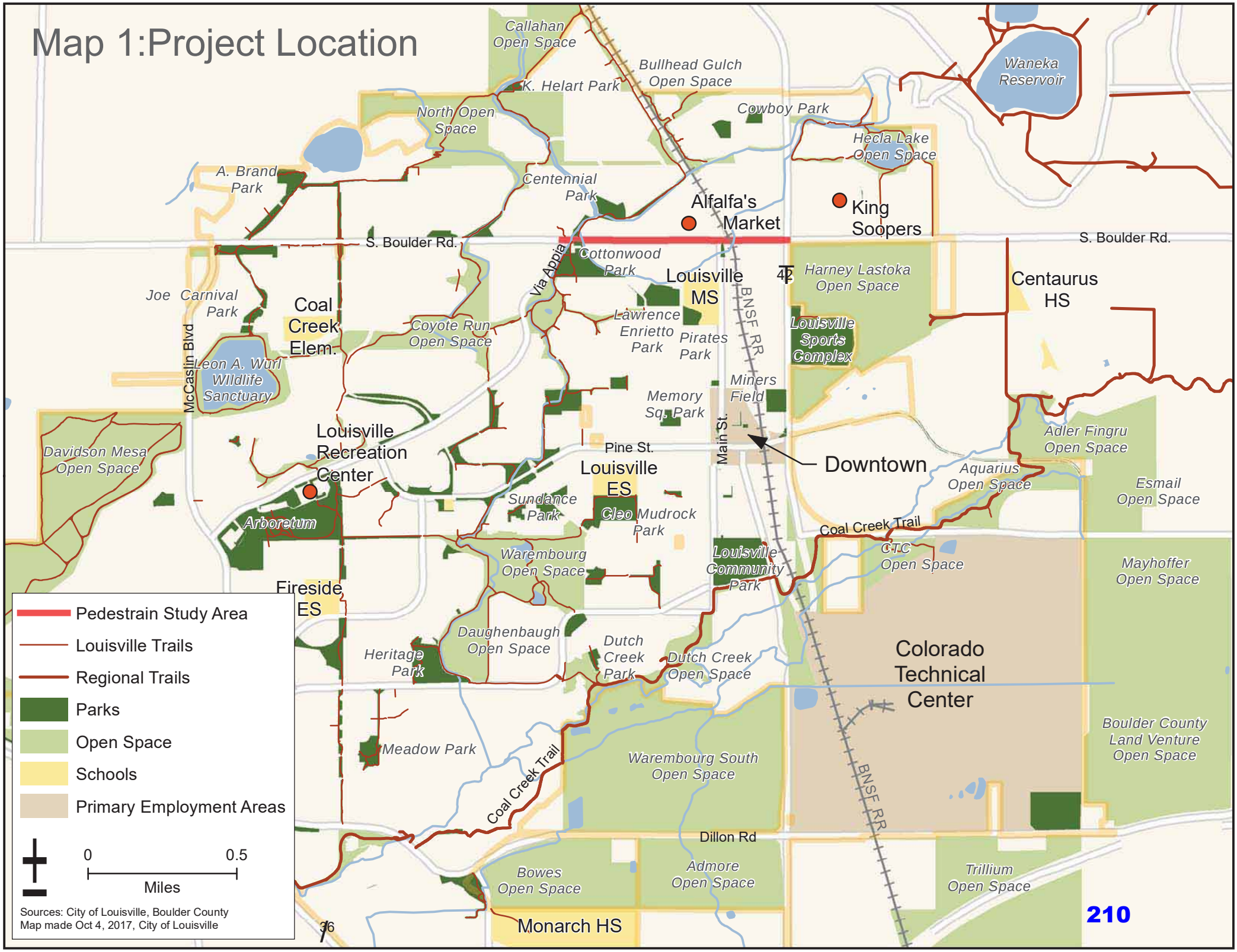
Frank Alexander, Executive Director
Boulder County Housing Authority

Please use this page as a section header and include **up to two** additional pages of maps of your project site indication the location of the project. Please label the maps and appropriately reference them in the Proposal Narrative.

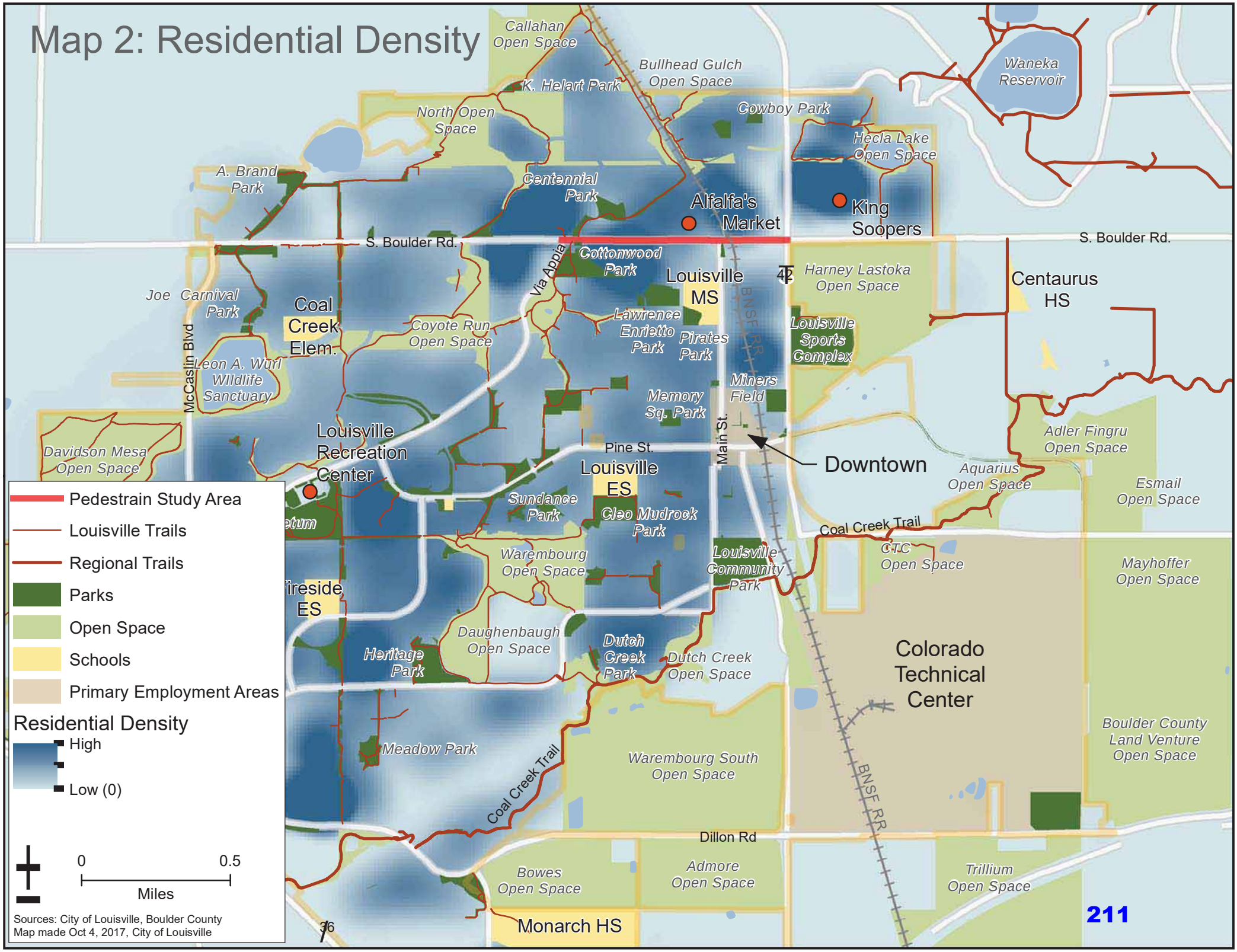
# MAPS

- Open Space, Trails and Road map and Study Area (Map 1)
- Population map (Map 2)
- Traffic counts/speed map (Map 3)

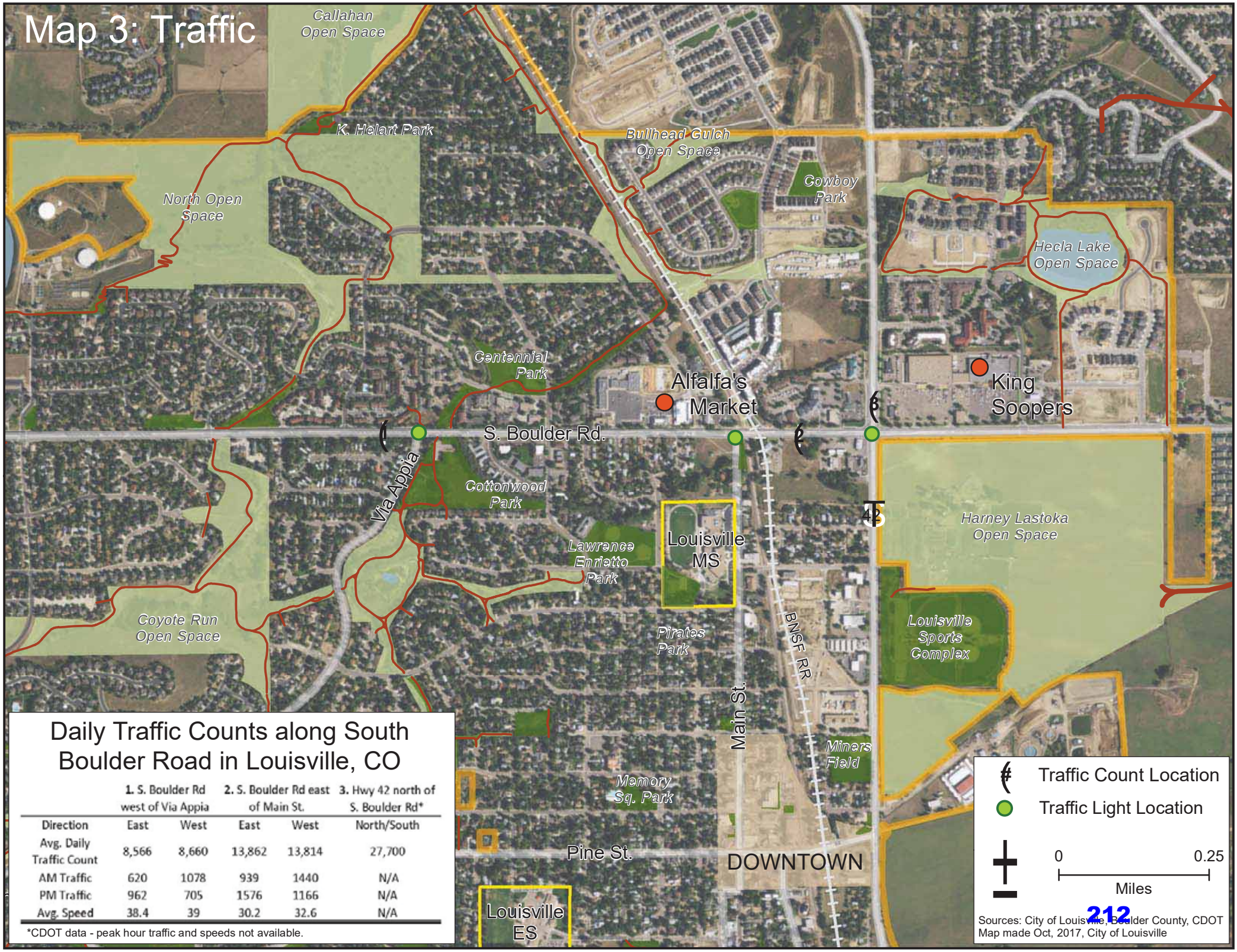
# Map 1:Project Location



# Map 2: Residential Density



# Map 3: Traffic




## Daily Traffic Counts along South Boulder Road in Louisville, CO

| | 1. S. Boulder Rd west of Via Appia | | 2. S. Boulder Rd east of Main St. | | 3. Hwy 42 north of S. Boulder Rd* |
|---|---|---|---|---|---|
| Direction | East | West | East | West | North/South |
| Avg. Daily Traffic Count | 8,566 | 8,660 | 13,862 | 13,814 | 27,700 |
| AM Traffic | 620 | 1078 | 939 | 1440 | N/A |
| PM Traffic | 962 | 705 | 1576 | 1166 | N/A |
| Avg. Speed | 38.4 | 39 | 30.2 | 32.6 | N/A |

*CDOT data - peak hour traffic and speeds not available.

Please use this page as a section header and include **up to three** additional pages with photographs of your project, (more than one photo may be included on each page).

# PHOTOS

Harney-Lastoka Open Space crossing at Hwy 42 and South Boulder Road, looking NE.

Harney-Lastoka Open Space and Ball fields

Main St. and South Boulder Road – cyclist crossing, looking SE and NW

South Boulder Road and Main St. during an event.

Louisville Community Park

Warembourg Open Space

Coal Creek Trail – Aquarius Trailhead

# OPPOSITION

Please use this page as a section header and include any documentation of opposition, if applicable.

We have no documentation of opposition. We have received many emails from community members about the need to address connectivity across South Boulder Road, but no formal or documented opposition to completing a plan for connectivity infrastructure.

Please use this page as a section header and include any surveys, news articles or other documentation of public outreach, if applicable

# PUBLIC OUTREACH

1) In 2015, the City conducted a survey regarding the walkability of South Boulder Road. An example of the survey is attached.
2) The South Boulder Road small area plan public process included, among other things, public input workshops. This process allowed the public to provide sticky-notes directly on maps to identify issues and potential solutions. Attached are three maps that illustrate some of the information gathered. The information was then included in the Small Area Plan.
3) Through the same process, the public was invited to participate in a "Walkability Audit" of South Boulder Road and provide input on issues as they were identified through the walk. Attached are notes from that process. Again, this information was used to inform the recommendations in the Small Area Plan.

# How walkable is South Boulder Road?

January 14, 2105

Rating Scale: 1 awful — 2 many problems — 3 some problems — 4 good — 5 very good — 6 excellent

## 1. Did you have room to walk?

☐ Yes ☐ Some problems:

- ☐ Sidewalks or paths started and stopped
- ☐ Sidewalks were broken or cracked
- ☐ Sidewalks were blocked with poles, signs,shrubbery, dumpsters, etc.
- ☐ No sidewalks, paths, or shoulders
- ☒ Too much traffic
- ☐ Something else _____

Rating: (circle one) 1 (2) 3 4 5 6

Locations of problems: _____

## 2. Was it easy to cross SBR?

☐ Yes ☐ Some problems:

- ☒ Road was too wide
- ☐ Traffic signals made us wait too long or did not give us enough time to cross
- ☐ Needed striped crosswalks or traffic signals
- ☐ Parked cars blocked our view of traffic
- ☐ Trees or plants blocked our view of traffic
- ☐ Did you have crossings where you wanted to cross?
- ☐ Needed curb ramps or ramps needed repair
- Something else Scary

Rating: (circle one) 1 (2) 3 4 5 6

Locations of problems: _____

## 3. Did drivers behave well?

☐ Yes ☐ Some problems: Drivers ...

- ☐ Exited out of driveways without looking
- ☐ Did not yield to people crossing the street
- ☐ Turned into people crossing the street
- ☒ Drove too fast
- ☐ Sped up to make it through traffic lights or drove through traffic lights?
- ☐ Something else _____

Rating: (circle one) 1 2 (3) 4 5 6

Locations of problems: _____

## 4. Was it easy to follow safety rules? Could you, could your child ...

- ☒ Yes ☐ No Cross at crosswalks or where you could see and be seen by drivers?
- ☒ Yes ☐ No Stop and look left, right and then left again before crossing streets?
- ☒ Yes ☐ No Walk on sidewalks or shoulders facing traffic where there were no sidewalks?
- ☒ Yes ☐ No Cross with the light?

Rating: (circle one) 1 (2) 3 4 5 6

Locations of problems: _____

## 5. Was it easy to cross the side streets?

☐ Yes ☐ Some problems:

- ☐ Side streets were too wide
- ☐ Traffic signals made us wait too long or did not give us enough time to cross
- ☒ Needed striped crosswalks or traffic signals
- ☐ Parked cars blocked our view of traffic
- ☐ Trees or plants blocked our view of traffic
- ☐ Did you have crossings where you wanted to cross?
- ☐ Needed curb ramps or ramps needed repair
- Something else _____

Rating: (circle one) 1 (2) 3 4 5 6

Locations of problems: _____

## How does the corridor stack up? Add up your ratings and decide.

1. _____
2. _____
3. _____
4. _____
5. ~~_____~~

Total: _____

| | |
|---|---|
| 26–30 | Celebrate! South Boulder Road is great for walking. |
| 21–25 | Celebrate a little. South Boulder Road is pretty good. |
| 16–20 | Okay, but it needs work. |
| 11–15 | It needs lots of work. You deserve better than that. |
| 5–10 | It's a disaster for walking! |

# How walkable is South Boulder Road?

January 14, 2105

Rating Scale: 1 awful — 2 many problems — 3 some problems — 4 good — 5 very good — 6 excellent

## 1. Did you have room to walk?

☐ Yes ☐ Some problems:

- ☐ Sidewalks or paths started and stopped
- ☐ Sidewalks were broken or cracked
- ☐ Sidewalks were blocked with poles, signs,shrubbery, dumpsters, etc.
- ☐ No sidewalks, paths, or shoulders
- ☐ Too much traffic
- ☒ Something else Ice + Snow

Rating: (circle one) 1 2 3 (4) 5 6

Locations of problems: Best on north side

## 2. Was it easy to cross SBR?

☒ Yes ☐ Some problems:

- ☐ Road was too wide
- ☐ Traffic signals made us wait too long or did not give us enough time to cross
- ☐ Needed striped crosswalks or traffic signals
- ☐ Parked cars blocked our view of traffic
- ☐ Trees or plants blocked our view of traffic
- ☐ Did you have crossings where you wanted to cross?
- ☐ Needed curb ramps or ramps needed repair

Something else _____

Rating: (circle one) 1 2 3 4 (5) 6

Locations of problems: _____

## 3. Did drivers behave well?

☐ Yes ☒ Some problems: Drivers ...

- ☐ Exited out of driveways without looking
- ☐ Did not yield to people crossing the street
- ☐ Turned into people crossing the street
- ☐ Drove too fast
- ☐ Sped up to make it through traffic lights or drove through traffic lights?
- ☒ Something else honked a few guy

Rating: (circle one) 1 2 3 4 (5) 6

Locations of problems: _____

## 4. Was it easy to follow safety rules? Could you, could your child ...

| | | |
|---|---|---|
| ☒ Yes | ☐ No | Cross at crosswalks or where you could see and be seen by drivers? |
| ☒ Yes | ☐ No | Stop and look left, right and then left again before crossing streets? |
| ☐ Yes | ☐ No | Walk on sidewalks or shoulders facing traffic where there were no sidewalks? |
| ☒ Yes | ☐ No | Cross with the light? |

Rating: (circle one) 1 2 3 4 5 (6)

Locations of problems: _____

## 5. Was it easy to cross the side streets?

☒ Yes ☐ Some problems:

- ☐ Side streets were too wide
- ☐ Traffic signals made us wait too long or did not give us enough time to cross
- ☐ Needed striped crosswalks or traffic signals
- ☐ Parked cars blocked our view of traffic
- ☐ Trees or plants blocked our view of traffic
- ☐ Did you have crossings where you wanted to cross?
- ☐ Needed curb ramps or ramps needed repair

Something else _____

Rating: (circle one) 1 2 3 4 (5) 6

Locations of problems: _____

## How does the corridor stack up? Add up your ratings and decide.

1. _____
2. 25
3. _____
4. _____
5. _____

Total: _____

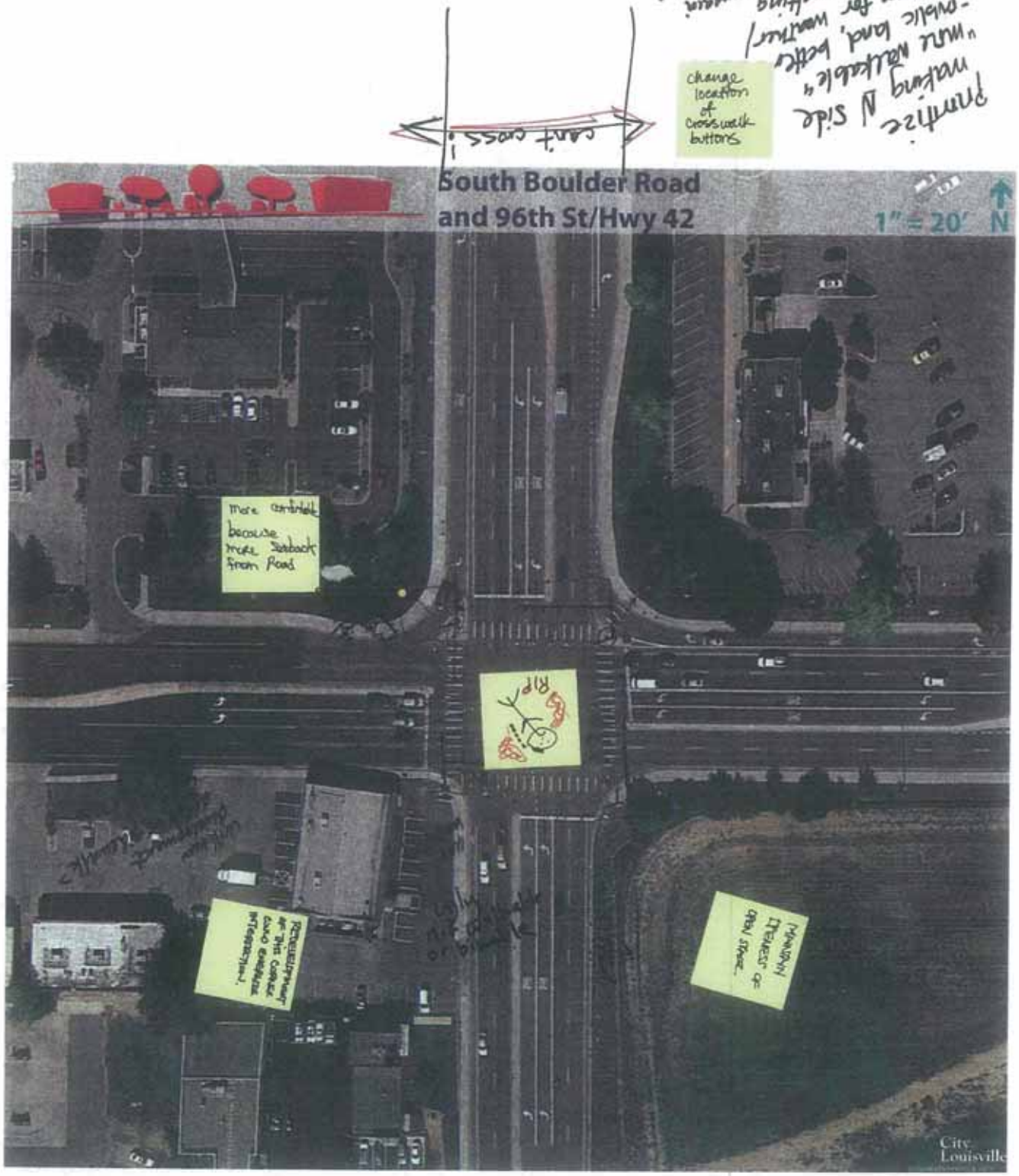
| | |
|---|---|
| 26–30 | Celebrate! South Boulder Road is great for walking. |
| 21–25 | Celebrate a little. South Boulder Road is pretty good. |
| 16–20 | Okay, but it needs work. |
| 11–15 | It needs lots of work. You deserve better than that. |
| 5–10 | It's a disaster for walking! |

Actually, I would not choose S. Blvd. for a walk esp. it's too noisy, too much traffic, too much exhaust.

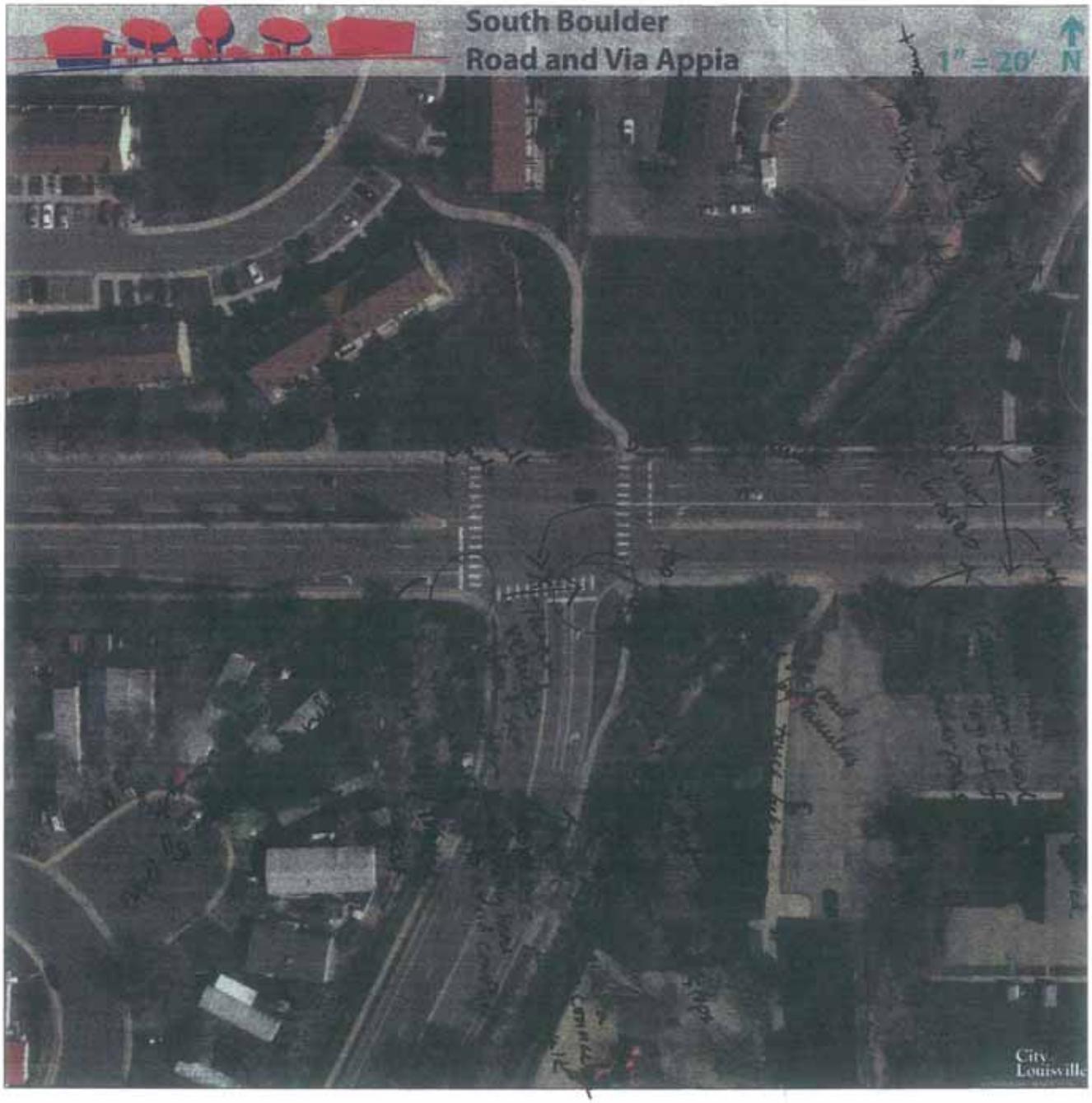
# South Boulder Road and Centennial

# South Boulder Road and Main

1" = 20'


South Boulder Road
and 96th St/Hwy 42
1" = 20'
N
can't cross!
change location of crosswalk buttons
prioritize making N side "more walkable" - public land, better exposure for walkers/ small walking space - safer, more attractive
More comfortable because more setback from Road
RIP
City Louisville

WTC




Hawk could be traffic calming

SOBORO Notes

Via Appia

- The regional bike connection, north of SOBORO, T's into SOBORO and is difficult to use if you are a commuter. It would be best if the regional trail was redesigned to cut diagonally to meet with the eastern crosswalk at Via Appia and SOBORO.
- We discussed putting in a HAWK intersection but most people of my group stated it was not necessary if the bike connections were better.
- There was an interest in an underpass if it could work.
- Some bike users said they illegally cross SOBORO where the regional bike path T's into SOBORO – they cross diagonally to the sidewalk in Cottonwood Park.
- The bike trail (sidewalk) in Cottonwood Park is tough to use.
- One person commented on how odd it is that side walk on the east side of Via Appia, south of SOBORO, just terminates. They said they would use the sidewalk more if it continued south.
- There was discussion about having a bridge connect the eastern sidewalk to Cottonwood Park, over the ditch.
- One bike rider stated he would not ever want his kids to use the bike lane on SOBORO. He would rather they ride on the sidewalk.
- The intersection of Via Appia and SOBORO is dark at night.
- One bus user said she sees people do mid-block crossings from the bus stop to cross Via Appia.
- The same bus user said the traffic turning from SOBORO to Via Appia are not good at looking for ped's – scary intersection!
- A blinking light notifying of ped's was discussed.
- Turning land improvements on SOBORO were discussed.

Garfield

- There was a suggestion to move the stormwater drain underground at intersection because the water will back up in the pan and get icy. Plus the pans are too difficult to cross.
- The left turn lane from Garfield to west bound SOBORO is too long during school.
- "If landscaping encroaches on sidewalk it should be cut back"
- Crossing cycle at north bound crosswalk not long enough for all users.
- Push button on Northeast corner too difficult to access on bike and ped – pole is approximately 20 feet back from intersection.
- Ice and snow often collects on sidewalk
- Sidewalk between Garfield and Sunset, on south side of SOBORO, is too narrow.
    - Tough for a wheel chair
    - Consider widening sidewalk up to the fence at this section
- 6' sidewalk seemed to be the consensus width for safety. However some believed the 5' felt safe when it was detached.
- If there is a tree lawn it should be at least 6 feet

SoBoRo Walkability Audit Notes | January 15, 2015 | Lauren and Troy's Group

Plaza:

- Short Lights
- Right turn on red
- Doesn't feel like peds should be there
- Need for diagonal crossing
- ADA accessibility?
- No landscaping, more trees needed
- How do you get through the parking lot?
- No bike lanes on North side
- Narrow sidewalk
- Need a guard from hwy
- Not safe

HWY 42:

- Yay underpass!
- Free flow lanes are not good for pedestrians
- Recent bike lane
- People cross up 42
- Minimize conflict pts.
- Right turn lanes more dangerous
- Sidewalks wider-attached (between 42 and Main)
- Cannon will connect to Hwy 42
- Connectivity rather than bigger
- Speed = geometrics ÷ environments
- Feels sunken from the road

MAIN:

- Underpass needed
- Less noise
- Sense of presence
- Closer connection to activity
- Landscaping in median
- Bike lanes @ Steel Ranch
- Bike along rail line?
- Can't slope the rode for overpass
- Can we realign main street?
- Too much swale?

Centennial:

- Parking along Centennial hazardous, turning right doesn't work
- Enviro different from King Sooper's
- Lower speed = larger cone of vision
- **there is no formal entrance to Louisville
- Super tiny sidewalks on south
- No connection to baseline
- SoBoRo serving Boulder/Lafayette
- Love sidewalks, pergola, setbacks
- Feels better @ Alfalfa's
- People bike on sidewalk
- Bike lanes hidden by snow
- Lots of fence to the south

Garfield:

- Lower income = more walkers
- Do we need right hand turn lanes?
- You can taste the pollution
- Roads higher than sidewalk = scary
- Peds crossing mid-block
- Relationship to ditch/trail?
- What's happening w/ Cottonwood?
- Attach sidewalk

Via Appia:

- Realign with trail
- Public art where trees are dying
- High pedestrian crossing
- Bus stop isolated
- Restrictions because of ditch
- Connect to Cottonwood park
- Concern about yellow flashing cross further down Via Appia

General:

- Kids don't use crosswalks
- North side of street feels better
- More PSAs for pedestrian safety

# Section 5 – Application – Environmental Checklist

The applicant is responsible for addressing any environmental impacts associated with the project, including: securing all necessary permits, licenses, clearances, and environmental analysis documentation necessary to comply with local, state, or federal law. Please fill out the table below and associated narratives. Consultation with Colorado Parks and Wildlife (CPW) local District Wildlife Manager and biological staff is required if the project is expected to have impacts on wildlife, sensitive wildlife habitats and/or lies within 200 feet of any aquatic landscape.

| **ENVIRONMENTAL CONSIDERATIONS** Indicate potential for adverse impacts | **NOT APPLICABLE** Resource does not exist | **NEGLIGIBE IMPACTS** Exists but no or negligible impacts | **MINOR IMPACTS** | **IMPACTS EXCEED MINOR** | **MORE DATA NEEDED TO DETERMINE DEGREE OF IMPACT** |
|---|---|---|---|---|---|
| 1. Plant/animal/fish species of special concern and habitat; state/federal listed or proposed for listing* | N/A | | | | |
| 2. Unique or important wildlife habitat – ie: migration corridor, winter range, reproductive considerations | N/A | | | | |
| 3. Unique or important aquatic habitat – ie: fish passage | N/A | | | | |
| 4. Water quality/quantity – surface and ground water considerations | N/A | | | | |
| 5. Stream flow characteristics | N/A | | | | |
| 6. River corridors/lakes/ponds/ seasonal water ways** | N/A | | | | |
| 7. Wetlands/floodplains | N/A | | | | |
| 8. Storm water runoff | N/A | | | | |
| 9. Sedimentation | N/A | | | | |
| 10. Disturbances to neighboring properties | N/A | | | | |
| 11. Soil/erosion | N/A | | | | |
| 12. Introduction or promotion of non-native species | N/A | | | | |
| 13. Environmental disturbances during construction | N/A | | | | |

*If the proposed project affects threatened or endangered species or critical habitat listed at the federal or state level, concurrence with a CPW wildlife manager or biologist is required prior to the submission of this application
**If the proposed project lies within 200 feet of a stream, river, lake, pond, seasonal stream or reservoir, concurrence with a CPW aquatic biologist is required prior to the submission of this application

**MITIGATION: Please describe how any impacts exceeding negligible will be mitigated, some considerations below:**

- Alternative design or trail route system
- Screening of users from wildlife area, protection of critical habitat, channeling use through less sensitive habitat areas
- Re-vegetation of disturbed areas and control of invasive species
- Management of users and related activities with signs, fencing, and education programs
- Consideration of runoff when selecting project materials, such as uncured concrete that would encourage seepage
- Comprehensive storm water runoff plan

Because we are conducting a study and creating a plan for connectivity, there are no direct environmental impacts associated with this project. The alternatives will be evaluated for feasibility, which will consider impacts that would need to be mitigated upon construction, and once the project advances to construction we will conduct a complete assessment of state and federally required environmental impacts. Any design plan will consider if there would be environmental impacts, and if so, how they might be mitigated. The City of Louisville will work with all necessary state and federal authorities to ensure that environmental impacts are identified and addressed adequately.

**BENEFIT:** Please describe if the project will have a positive impact on wildlife and/or sensitive species; some consideration below:

- Habitat improvement such as restoration of native habitat, wetlands restoration, erosion reduction, sediment reduction, river corridor clean-up, or plantings with a diversity of species and plant types for habitat restoration, and the reduction or elimination of non-native plant species
- Education of users through environmental education programs, opportunities for "watchable wildlife," and wildlife impact monitoring

Since this is a study and plan, there will be no direct impacts to wildlife and/or sensitive species. However, when the project advances toward construction there would be an assessment of positive impacts, which may include improving connectivity for wildlife movement across busy street corridors, increased connections to users to parks, open spaces and trails which would increase their ability to participate in wildlife watching and environmental education programs.

**ENVIRONMENTAL COMPLIANCE:** The applicant is responsible for adhering to all applicable environmental compliance regulations including: Migratory Bird Treaty Act; concurrence with US Fish and Wildlife Service if any federally listed species of concern exist in project area; Clean Water Act section 404; US Army Corps of Engineers 404 permits; raptor buffer guidelines and incorporation of CPW recommended wildlife best management practices; CO Senate Bill 40 (33-5-101-107, CRS 1973 as amended); Colorado Historical, Prehistoric and Archeological Resources Act

Joliette Woodson

**Printed name of applicant:**

Joliette Woodson

**Signature of applicant**

10/31/17

**Date**

Heather Balsar, Acting City Manager

**Printed name, title of authority:**

Heather Balsar

**Signature authority:**

10/31/17

**Date**

**SUBJECT:** **APPROVAL OF RESOLUTION NO. 22, SERIES 2020 – A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY OF LOUISVILLE CONCERNING A GRANT FOR THE CONCEPTUAL DESIGN PLAN FOR THE STATE HIGHWAY 42 MULTIMODAL IMPROVEMENTS PROJECT**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **KURT KOWAR, PUBLIC WORKS DIRECTOR**
**MEGAN DAVIS, DEPUTY CITY MANAGER**

**SUMMARY:**
In 2019 the City received a funding grant from DRCOG for a preliminary design study on SH 42. The funding is a part of the DRCOG Transportation Improvement Program (TIP) awarded to the City of Louisville through a competitive funding process. This is federal funding and the program is administered by CDOT. The application was submitted jointly on behalf of the City of Louisville and City of Lafayette, and the project expands the stretch of SH 42 from Empire Road to SH 7 (Arapahoe Road). The total project cost for the study is estimated at $500,000, and the City received $350,000 from DRCOG for the study and each community committed $75,000 in local match for the study. While only 20% match is required by the grant, grant applications with an over-match (more than the 20% required match) scored higher than projects with a 20% match.

The IGA includes a maximum project funding amount of $437,500, which includes 20% in match funding from the City of Louisville and City of Lafayette. The maximum amount payable to the City under the agreement is $350,000, with required 20% matching funds of $87,500. The City has budgeted a total of $75,000 for our portion of the over-match.

This project will also require an IGA between the Cities of Louisville and Lafayette for the match funding and completion of the project, which will be brought to City Council for consideration at a later date.

The purpose of this Agreement is to disburse Federal funds, by way of reimbursement, to the Local Agency pursuant to CDOT's Stewardship Agreement with the FHWA. The agreement outlines the following scope of work between the City and CDOT:

- CDOT and the City of Louisville believe it will be beneficial to perform this work because it will update the existing corridor plan utilizing the City's Transportation Master Plan, the Northwest Area Mobility Study, and other plans to implement

new objectives such as establishing transit goals, recommend multimodal connectivity, evaluate intersection improvements, and give considerations to future access points.

- The conceptual design plan will provide greater specificity on treatments throughout the corridor including the recommendation of a roadway cross-section, intersection improvements to support safe multimodal enhancements, and a separated multi-use pathway on the east side of SH 42.
- The work will conform to all relevant parameters identified by CDOT.
- Conceptual design is scheduled to begin during fiscal year 2020.
- The conceptual design plan will establish and create a revised plan that will provide design guidelines for improvements that address transportation, growth and land development challenges outlined in the DRCOG Metro Vision Plan, including: increased mobility options, reduced traffic congestion, reduced traffic crashes, address access issues, and improve overall safety in the corridor.

**FISCAL IMPACT:**
The grant agreement and additional over-match funding will increase the City's budget by $500,000, with $350,000 in federal funding and match funding of $150,000 to be divided equally between the City of Louisville and City of Lafayette. The City's match funding will come from the Transportation Master Plan first steps line in the CIP budget. Staff will include the budget adjustments for this project in the June budget amendment, creating a new expenditure budget line for the gross cost and a new revenue budget line for the grants and contribution revenues.

**PROGRAM/SUB-PROGRAM IMPACT:**
This project supports the Transportation program area goal for a safe, well-maintained, effective and efficient multi-modal transportation system at a reasonable cost.

**RECOMMENDATION:**
Staff recommends approval of Resolution No. 22, Series 2020.

**ATTACHMENT(S):**
1. Resolution No. 22, Series 2020
2. IGA Contract with CDOT for SH 42 design plan
3. DRCOG TIP grant application

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | Financial Stewardship & Asset Management | ☐ | Reliable Core Services |
| ☐ | Vibrant Economic Climate | ☒ | Quality Programs & Amenities |
| ☐ | Engaged Community | ☐ | Healthy Workforce |
| ☐ | Supportive Technology | ☐ | Collaborative Regional Partner |

**RESOLUTION NO. 22**
**SERIES 2020**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY OF LOUISVILLE CONCERNING A GRANT FOR THE CONCEPTUAL DESIGN PLAN FOR THE STATE HIGHWAY 42 MULTIMODAL IMPROVEMENTS PROJECT**

**WHEREAS**, the State of Colorado through the Colorado Department of Transportation, ("CDOT") administers federal funds and grants under the Surface Transportation Improvement Program for local transportation programs; and

**WHEREAS**, the City of Louisville has applied for and been awarded a Surface Transportation Improvement Program grant to complete a conceptual design plan for the State Highway 42 Multimodal Improvements Project (the "Project"); and

**WHEREAS,** the conceptual design plan will provide greater specificity on treatments throughout that segment of State Highway 42 extending between Empire Road and State Highway 7, including the recommendation of a roadway cross-section, intersection improvements to support safe multimodal enhancements, and a separated multi-use pathway on the east side of State Highway 42; and

**WHEREAS,** the City desires to accept such grant and authorize execution of a grant contract for such funds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:**

1. The City Council hereby approves that certain Intergovernmental Agreement between the Colorado Department of Transportation and the City of Louisville for the Surface Transportation Improvement Program grant awarded to the City for the Conceptual Design Plan for the State Highway 42 Multimodal Improvements Project under Project No. STU M825-014 (23384) ("Contract"), in substantially the same form as the copy of such Contract accompanying this Resolution.

2. The Mayor is hereby authorized to execute the Contract on behalf of the City Council of the City of Louisville, except that the Mayor and City Manager are hereby further authorized to negotiate and approve such revisions to the Contract as the Mayor or City Manager determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Contract are not altered.

3. The Mayor, City Manager and City Staff are hereby authorized and directed to do all things necessary on behalf of the City to perform the obligations of the City under the Contract, including without limitation that the Mayor or City Manager are authorized to execute and deliver any certifications, reports, forms, option letters, contract amendments and other documents

appropriate or required in connection with the Contract and completion of the City project to be funded in part with funds received under the Contract.

4. The City's obligation to make payments under the Contract is from year to year only, and payments of the City contribution for fiscal year 2021 are subject to annual budgeting and appropriation in the sole and absolute discretion of the City Council. Nothing in the Contract shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution, Article X, Section 20, and the City's obligations under the Contract are expressly conditioned upon annual appropriation by the City Council.

**PASSED AND ADOPTED** this 17th day of March, 2020.

_____
Ashley Stolzmann, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

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

| | | | |
|---|---|---|---|
| **State Agency**<br>Department of Transportation | | | **Agreement Routing Number**<br>20-HA4-XC-03033 |
| **Local Agency**<br>CITY OF LOUISVILLE | | | **Agreement Effective Date**<br>The later of the effective date or March 13, 2020 |
| **Agreement Description**<br>SH 42 Design Plan: Empire Road to SH 7 | | | **Agreement Expiration Date**<br>March 12, 2030 |
| **Project #**<br>STU M825-014 (23384) | **Region #**<br>4 | **Contract Writer**<br>JH | **Agreement Maximum Amount**<br>$437,500.00 |

## THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

| | |
|---|---|
| **LOCAL AGENCY**<br>CITY OF LOUISVILLE<br><br>_____<br>Signature<br><br>_____<br>By: (Print Name and Title)<br><br>Date: _____ | **STATE OF COLORADO**<br>Jared S. Polis, Governor<br>Department of Transportation<br>Shoshana M. Lew, Executive Director<br><br>_____<br>Stephen Harelson, P.E., Chief Engineer<br><br>Date: _____ |
| 2nd State or Local Agency Signature if Needed<br><br>_____<br>Signature<br><br>_____<br>By: (Print Name and Title)<br><br>Date: _____ | **LEGAL REVIEW**<br>Philip J. Weiser, Attorney General<br><br>_____<br>Assistant Attorney General<br><br>_____<br>By: (Print Name and Title)<br><br>Date: _____ |

In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

**STATE CONTROLLER**
**Robert Jaros, CPA, MBA, JD**

By:_____
Department of Transportation

Effective Date:_____

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EXHIBIT A, STATEMENT OF WORK
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EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM
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**.

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 the date of notice of CDOT final acceptance ("Agreement Expiration Date") 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. "**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.

S. "**OMB**" means the Executive Office of the President, Office of Management and Budget.

T. "**Oversight**" means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.

U. "**Party**" means the State or Local Agency, and "**Parties**" means both the State and Local Agency.

V. "**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.

W. "**Recipient**" means the Colorado Department of Transportation (CDOT) for this Federal Award.

X. "**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.

Y. **"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.

Z. **"State Fiscal Rules"** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).

AA. **"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.

BB. **"State Purchasing Director"** means the position described in the Colorado Procurement Code and its implementing regulations.

CC. **"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.

DD. "**Subcontractor**" means third-parties, if any, engaged by Local Agency to aid in performance of the Work.

EE. "**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.

FF. "**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.

GG. "**Work**" means the delivery of the Goods and performance of the Services in compliance with CDOT's Local Agency Manual described in this Agreement.

HH. "**Work Product**" means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. "Work Product" does not include any material that was developed prior to the 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 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.

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

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**

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:

1. Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
2. 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.
3. 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.
4. Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
5. 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.
6. Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
7. 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 CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

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

b. $2,000,000 general aggregate.

v. Professional Liability Insurance

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

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

b. $1,000,000 general aggregate.

vi. Crime Insurance

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

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

b. $1,000,000 general aggregate.

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**

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|---|
| Colorado Department of Transportation (CDOT) |
| Katelyn Triggs, Project Manager |
| Region 4 |
| 10601 10th Sttreet |
| Greeley, CO 80634 |
| 970-350-2160 |
| katelyn.triggs@state.co.us |

**For the Local Agency**

| |
|---|
| CITY OF LOUISVILLE |
| Megan Davis, Deputy City Manager |
| 749 Main Street |
| Louisville, CO 80027 |
| 303-335-4539 |
| mdavis@louisvilleco.gov |

**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

The Colorado Department of Transportation ("CDOT") will oversee The City of Louisville when the City completes the conceptual design plan for the SH 42 Multimodal Improvements project. (Hereinafter referred to as "this work") CDOT and the City of Louisville believe it will be beneficial to perform this work because it will update the existing corridor plan utilizing the City's Transportation Master Plan, the Northwest Area Mobility Study, and other plans to implement new objectives such as establishing transit goals, recommend multimodal connectivity, evaluate intersection improvements, and give considerations to future access points. The conceptual design plan will provide greater specificity on treatments throughout the corridor including the recommendation of a roadway cross-section, intersection improvements to support safe multimodal enhancements, and a separated multi-use pathway on the east side of SH 42.

This work will conform to the parameters articulated in the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, AASHTO "A Policy on Geometric Design of Highways and Streets", AASHTO "Roadside Design Guide", and the CDOT Project Development Manual, CDOT M&S Standards, CDOT Design Guide, CDOT Construction Manual, Manual on Uniform Traffic Control Devices, Highway Capacity Manual, City of Louisville Transportation Master Plan, along with all applicable State and Federal guidelines.

Conceptual design is scheduled to begin during fiscal year 2020. The conceptual design plan will establish and create a revised plan that will provide design guidelines for improvements that address transportation, growth and land development challenges outlined in the DRCOG Metro Vision Plan, including: increased mobility options, reduced traffic congestion, reduced traffic crashes, address access issues, and improve overall safety in the corridor.

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# EXHIBIT B, SAMPLE OPTION LETTER

| | | |
|---|---|---|
| **State Agency**<br>Department of Transportation | | **Option Letter Number**<br>ZOPTLETNUM |
| **Local Agency**<br>ZVENDORNAME | | **Agreement Routing Number**<br>ZSMARTNO |
| **Agreement Maximum Amount**<br>Initial term<br>State Fiscal Year ZFYY_1<br>Extension terms<br>State Fiscal Year ZFYY_2<br>State Fiscal Year ZFYY_3<br>State Fiscal Year ZFYY_4<br>State Fiscal Year ZFYY_5<br>Total for all state fiscal years | <br><br>$ ZFYA_1<br><br>$ ZFYA_2<br>$ ZFYA_3<br>$ ZFYA_4<br>$ ZFYA_5<br>$ ZPERSVC_MAX_AMOUNT | **Agreement Effective Date**<br>The later of the effective date or ZSTARTDATEX<br><br>**Current Agreement Expiration Date**<br>ZTERMDATEX |

**1. OPTIONS:**

A. Option to extend for an Extension Term

B. Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (does not apply to Acquisition/Relocation or Railroads) and to update encumbrance amounts (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

C. Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

D. Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

E. Option to update a Phase Performance Period and/or Modify OMB Uniform Guidance Information.

**2. REQUIRED PROVISIONS:**

**Option A**

In accordance with Section 2, C of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning on (*insert date*) and ending on the current contract expiration date shown above, under the same funding provisions stated in the Original Contract Exhibit C, as amended.

**Option B**

In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous)*is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for **Exhibit C** shall be labled as follows: **C-2**, **C-3**, **C-4**, etc.*).

**Option C**

In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to

authorize the Local Agency to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

**Option D**
In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

*(The following language must be included on ALL options):*
The Agreement Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

**Option E**
In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to update a Phase Performance Period and/or Modify OMB Uniform Guidance Information. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

**3. OPTION EFFECTIVE DATE:**

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

**APPROVALS:**

**State of Colorado:**
Jared S. Polis, Governor

By: _____ Date: _____
Executive Director, Colorado Department of Transportation

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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

**State Controller**
**Robert Jaros, CPA, MBA, JD**

By: _____

Date: _____

A. **Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be $437,500.00, which is to be funded as follows:

| | | |
|---|---|---|
| **1.** | **BUDGETED FUNDS** | |
| a. | Federal Funds<br>(80.00% of Participating Costs) | $350,000.00 |
| b. | Local Agency Matching Funds<br>(20.00% of Participating Costs) | $87,500.00 |
| | **TOTAL BUDGETED FUNDS** | $437,500.00 |
| **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: | $350,000.00 |
| 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 | $350,000.00 |
| b. | Less Estimated Federal Share of CDOT-Incurred Costs | $0.00 |
| | **TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY** | $350,000.00 |
| **4.** | **FOR CDOT ENCUMBRANCE PURPOSES** | |
| a. | Total Encumbrance Amount | $437,500.00 |
| b. | Less ROW Acquisition 3111 and/or ROW Relocation 3109 | $0.00 |
| | Net to be encumbered as follows: | $437,500.00 |

***Note: No funds are currently available. Miscellaneous phase funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.***

| | | | | |
|---|---|---|---|---|
| WBS Element 23384.10.50 | **Performance Period Start*/End Date**<br>TBD | Misc. | 3404 | $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 participating funds for this Work is 80.00% federal-aid funds to 20.00% Local Agency funds, it being understood that such ratio applies only to the $437,500.00 that is eligible for federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds $437,500.00, and additional federal funds are made available for the Work, the Local Agency shall pay 20.00% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the Local Agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than $437,500.00, 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.

## C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be $350,000.00 (for CDOT accounting purposes, the federal funds of $350,000.00 and the Local Agency matching funds of $87,500.00 will be encumbered for a total encumbrance of $437,500.00), 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 participating 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.

## D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving more than $750,000 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**

**NOT APPLICABLE**

COLORADO DEPARTMENT OF TRANSPORTATION

# LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

| Project No. | STIP No. | Project Code | Region |
|---|---|---|---|
| STU M825-014 | SDR6717.021 | 23384 | 4 |

| Project Location | Date |
|---|---|
| SH 42: Empire Rd/Lock St to SH 7 | 12/2/19 |

Project Description
SH 42 Multimodal Improvements Study

| Local Agency | Local Agency Project Manager |
|---|---|
| City of Louisville | Geoff Nettleton |
| **CDOT Resident Engineer** | **CDOT Project Manager** |
| Bryce Reeves | Katelyn Triggs |

**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 *CDOT Local Agency Manual*.

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<br>• Project Development<br>• Construction Contract Administration (including Fabrication Inspection Services) | 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<br>This project ☐ is ☒ is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.)<br>Bryce Reeves 12/2/19<br>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 | | |
| | 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)<br>• Fabrication Inspection Notifications | X | # |
| | Pre-survey<br>• Construction staking<br>• Monumentation | X | |
| | Partnering (Optional) | X | |
| | Structural Concrete Pre-Pour (Agenda is in *CDOT Construction Manual)* | X | # |
| | Concrete Pavement Pre-Paving (Agenda is in *CDOT Construction Manual)* | X | # |
| | HMA Pre-Paving (Agenda is in *CDOT Construction Manual)* | X | # |
| 8.4 | Develop and distribute Public Notice of Planned Construction to media and local residents | X | |

| NO. | DESCRIPTION OF TASK | RESPONSIBLE PARTY LA | CDOT |
|---|---|---|---|
| 8.5 | Supervise Construction | | |
| | A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision."<br>Geoff Nettleton — 303-419-7445<br>Local Agency Professional Engineer or CDOT Resident Engineer — Phone number | X | |
| | Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications | X | |
| | Construction inspection and documentation | X | |
| | Fabrication Inspection and documentation | X | |
| 8.6 | Approve Shop Drawings | X | # |
| 8.7 | Perform Traffic Control Inspections | X | # |
| 8.8 | Perform Construction Surveying | X | |
| 8.9 | Monument Right-of-Way | X | |
| 8.10 | Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent)<br><br>Provide the name and phone number of the person authorized for this task.<br>Geoff Nettleton — 303-419-7445<br>Local Agency Representative — Phone number | X | |
| 8.11 | Prepare and Approve Interim and Final Utility and Railroad Billings | X | |
| 8.12 | Prepare and Authorize Change Orders | **X** | # |
| 8.13 | Submit Change Order Package to CDOT | **X** | |
| 8.14 | Prepare Local Agency Reimbursement Requests | **X** | |
| 8.15 | Monitor Project Financial Status | X | |
| 8.16 | Prepare and Submit Monthly Progress Reports | X | |
| 8.17 | Resolve Contractor Claims and Disputes | X | |
| 8.18 | Conduct Routine and Random Project Reviews<br><br>Provide the name and phone number of the person responsible for this task.<br>Bryce Reeves — 970-350-2126<br>CDOT Resident Engineer — Phone number | | **X** |
| 8.19 | Ongoing Oversight of DBE Participation | **X** | |
| **MATERIALS** | | | |
| 9.1 | Discuss Materials at Pre-Construction Meeting<br>• Buy America documentation required **prior to** installation of steel | X | |
| 9.2 | Complete CDOT Form 250 - Materials Documentation Record<br>• Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project<br>• Update the form as work progresses<br>• Complete and distribute form after work is completed | X | X |
| 9.3 | Perform Project Acceptance Samples and Tests | X | |
| 9.4 | Perform Laboratory Verification Tests | X | |
| 9.5 | Accept Manufactured Products<br><br>Inspection of structural components:<br>• Fabrication of structural steel and pre-stressed concrete structural components<br>• Bridge modular expansion devices (0" to 6" or greater)<br>• Fabrication of bearing devices | X | |
| 9.6 | Approve Sources of Materials | X | |
| 9.7 | Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures ☒<br>• Generate IAT schedule<br>• Schedule and provide notification<br>• Conduct IAT | X | # |

| NO. | DESCRIPTION OF TASK | RESPONSIBLE PARTY LA | CDOT |
|---|---|---|---|
| 9.8 | Approve mix designs<br>• Concrete<br>• Hot mix asphalt | X | X |
| 9.9 | Check Final Materials Documentation | X | # |
| 9.10 | Complete and Distribute Final Materials Documentation | X | # |
| **CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE** | | | |
| 10.1 | Fulfill Project Bulletin Board and Pre-Construction Packet Requirements | X | |
| 10.2 | Process CDOT Form 205 - Sublet Permit Application<br>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.<br>• Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements.<br>• Complete CDOT Form 838 – OJT Trainee / Apprentice Record.<br>• Complete CDOT Form 200 - OJT Training Questionnaire | X | |
| 10.6 | Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.) | X | # |
| 10.7 | Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report | X | |
| **FINALS** | | | |
| 11.1 | Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.) | | **X** |
| 11.2 | Write Final Project Acceptance Letter | X | |
| 11.3 | Advertise for Final Settlement | X | |
| 11.4 | Prepare and Distribute Final As-Constructed Plans | X | |
| 11.5 | Prepare EEO Certification 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 | 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 | 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 agree 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

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:

Civil Rights & Business Resource Center

Colorado Department of Transportation

2829 W. Howard Place

Denver, Colorado 80204

Phone: (303) 757-9234

REVISED 1/22/98 REQUIRED BY 49 CFR PART

# 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 tiem 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.

FHWA-1273 -- Revised May 1, 2012

# REQUIRED CONTRACT PROVISIONS
# FEDERAL-AID CONSTRUCTION CONTRACTS


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

ATTACHMENTS

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


## I. GENERAL

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

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

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

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

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

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

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

## II. NONDISCRIMINATION

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

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

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

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

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

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

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

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

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

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

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

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

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

## III. NONSEGREGATED FACILITIES

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

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

## IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

### 1. Minimum wages

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

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

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

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

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

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

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

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

will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

**2. Withholding**

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

**3. Payrolls and basic records**

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

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

**4. Apprentices and trainees**

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

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

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

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

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

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

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the 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:

18 U.S.C. 1020 reads as follows:

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

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

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

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

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

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

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

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

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

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

### 1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

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

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

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

* * * * *

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

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

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

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

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

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

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

**2. Instructions for Certification - Lower Tier Participants:**

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

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

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

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

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

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

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

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

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

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

* * * * *

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# EXHIBIT 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 Agencys and their contractors or the Local Agencys).

**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 Agencys and the Local Agencys 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 US.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 grouds 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 US.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 in order

## 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 ToSAM.** 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)***<br>*1. Check only one box for each question. All questions are required to be answered.*<br>*2. Utilize the "Comment" section below the last question for additional responses.*<br>*3. When complete, check the box at the bottom of the form to authorize.* | Yes | No | N/A |
| **EXPERIENCE ASSESSMENT** | Yes | No | N/A |
| 1 Is your entity new to operating or managing federal funds (has not done so within the past three years)? | ☐ | ☐ | |
| 2 Is this funding program new for your entity (managed for less than three years)? *Examples of funding programs include CMAQ, TAP, STP-M, etc.* | ☐ | ☐ | |
| 3 Does your staff assigned to the program have at least three full years of experience with this federal program? | ☐ | ☐ | |
| **MONITORING/AUDIT ASSESSMENT** | Yes | No | N/A |
| 4 Has your entity had an on-site project or grant review from an external entity *(e.g., CDOT, FHWA)* within the last three years? | ☐ | ☐ | ☐ |
| 5 a) Were there non-compliance issues in this prior review? | ☐ | ☐ | ☐ |
| b) What were the number and extent of issues in prior review? | ☐ *1 to 2* | ☐ *>2* | ☐ |
| **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? *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.* | ☐ | ☐ | |
| **FINANCIAL ASSESSMENT** | Yes | No | N/A |
| 7 a) Does your entity have an indirect cost rate that is approved and current? | ☐ | ☐ | |
| b) If Yes, who approved the rate, and what date was it approved? | | | |
| 8 Is this grant/award 10% or more of your entity's overall funding? | ☐ *>10%* | ☐ *<10%* | |
| 9 Has your entity returned lapsed* funds? **Funds "lapse" when they are no longer available for obligation.* | ☐ | ☐ | ☐ |
| 10 Has your entity had difficulty meeting local match requirements in the last three years? | ☐ | ☐ | ☐ |
| 11 What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end? | | | |

| INTERNAL CONTROLS ASSESSMENT | | Yes | No | N/A |
|---|---|---|---|---|
| 12 | Has your entity had any significant changes in key personnel or accounting system(s) in the last year? *(e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.* | ☐ | ☐ | ☐ |
| 13 | Does your entity have financial procedures and controls in place to accommodate a federal-aid project? | ☐ | ☐ | |
| 14 | Does your accounting system identify the receipts and expenditures of program funds separately for each award? | ☐ | ☐ | |
| 15 | Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget? | ☐ | ☐ | |
| 16 | Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? *If Yes, in the comment section, please explain your current process for reviewing costs.* | ☐ | ☐ | ☐ |
| 17 | How many total FTE perform accounting functions within your organization? | ☐ ≥6 | ☐ 2 to 5 | ☐ <2 |
| **IMPACT ASSESSMENT** | | **Yes** | **No** | **N/A** |
| 18 | For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? *If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. ( *Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)* | ☐ | ☐ | |
| 19 | For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? *Response options:*<br>***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.*<br>***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.*<br>***N/A** = Check if have no violations.* | ☐ | ☐ | ☐ |
| **PROGRAM MANAGEMENT ASSESSMENT** | | **Yes** | **No** | **N/A** |
| 20 | Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |
| 21 | Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? *If Yes, please submit with this form. ( *The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)* | ☐ | ☐ | ☐ |
| 22 | a) Is your staff familiar with the relevant CDOT manuals and federal program requirements? | ☐ | ☐ | ☐ |
| | b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |
| | c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |

| | | | |
|---|---|---|---|
| d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. *If Yes, please submit with this form.* | ☐ | ☐ | ☐ |
| 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 *(Buy America requirements )? If Yes, please submit with this form.* | ☐ | ☐ | ☐ |

***Comments*** *- As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.*

☐ ***By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.***

*Tool Version: v2.0 (081816)*

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

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

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

**9.1. "Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38

**9.2. "Federal Award"** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

**9.3. "Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37

**9.4. "FFATA"** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

**9.5. "Grant" or "Grant Agreement"** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.

**9.6. "OMB"** means the Executive Office of the President, Office of Management and Budget.

**9.7. "Recipient"** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86

**9.8. "State"** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.

**9.9. "Subrecipient"** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.

**9.10. "Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

**9.11. "Uniform Guidance Supplemental Provisions"** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.

**10. Compliance**. Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions

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

**11. Procurement Standards.**

**3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.

**3.2 Procurement of Recovered Materials**. If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

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

**5.1 Election**. Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

**5.2 Exemption**. If Subrecipient expends less than $750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

**5.3 Subrecipient Compliance Responsibility**. Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

**6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

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

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

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

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

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

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

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

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

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

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

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

**4.3** **Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**4.4** **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**4.5** **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**4.6** **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**7.** **Certifications**. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

**1. 8.Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30

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

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

10. **Performance Measurement**

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

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

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

# 2020–2023 Transportation Improvement Program (TIP)
# Boulder County Subregional Share
# Project Application Form

## APPLICATION OVERVIEW

The **Subregional Share Call for Projects** will **open on January 2, 2019**, with applications **due no later than 3 p.m. on February 27, 2018** to your subregional forum.

- To be eligible to submit, at least one person from your agency must have attended one of the mandatory TIP training workshops (held August 8 and August 16) or a supplemental training held on September 14.
- Projects requiring CDOT and/or RTD concurrence must provide their official response with the application submittal. The CDOT/RTD concurrence request is due to CDOT/RTD no later than January 7, with CDOT/RTD providing a response no later than February 8. The form can be found here.
- Any applications submitted by regional or similar agencies (TMA's), or municipalities crossing multiple subregions, must be submitted through the subregional forum based on where the majority of the project is located.
- Data to help the sponsor fill out the application, *especially Part 3*, can be found here.
- If any sponsor wishes to request additional data or calculations from DRCOG staff, please submit your request to tcottrell@drcog.org no later than February 6, 2019.
- The application must be affirmed by either the applicant's City or County Manager or Chief Elected Official (Mayor or County Commission Chair) for local governments, or agency director or equivalent for other applicants.
- Further details on project eligibility, evaluation criteria, and the selection process are defined in the ***Policy on Transportation Improvement Program (TIP) Preparation: Procedures for Preparing the 2020-2023 TIP*,** which can be found online here.

## APPLICATION FORM OUTLINE

The 2020-2023 TIP Subregional Share application contains three parts: *base project information* (Part 1), *evaluation questions* (Part 2), and *data calculation estimates* (Part 3). DRCOG staff will review each forum's submitted applications for eligibility. Each forum will be responsible for making a comprehensive evaluation of all eligible applications and rank ordering their submittals to determine their recommended projects and waiting lists. Forum recommendations will be forwarded to DRCOG staff for a final recommendation to the TAC, RTC, and DRCOG Board.

### Part 1 | Base Information

Applicants will enter **foundational** information for their *project/program/study* (hereafter referred to as *project*) in Part 1, including a Problem Statement, project description, and concurrence documentation from CDOT and/or RTD, if applicable. Part 1 will not be scored.

### Part 2 | Evaluation Criteria, Questions, and Scoring

This part includes four sections (A-D) for the **applicant to provide qualitative and quantitative responses** to use for scoring projects. The outcomes from Part 3 should guide the applicant's responses in Part 2**.**

**Scoring Methodology**: Each section will be scored using a scale of *High-Medium-Low,* relative to other applications received. The four sections in Part 2 are weighted and scored as follows:

**Section A. Subregional Significance of Proposed Projects ..... 40%**

| | |
|---|---|
| **High** | The project will significantly address a clearly demonstrated major subregional problem and benefit people and businesses from multiple subregions. |
| **Medium** | The project will either moderately address a major problem or significantly address a moderate-level subregional problem. |
| **Low** | The project will address a minor subregional problem. |

**Section B. Metro Vision TIP Focus Areas ..... 30%**

| | |
|---|---|
| **High** | The project will **significantly improve** the safety and/or security, **significantly increase** the reliability of the transportation network, and benefit a **large number and variety** of users (including vulnerable populations*). |
| **Medium** | The project will **moderately improve** the safety and/or security**, moderately increase** the reliability of the transportation network, and benefit a **moderate number and variety** of users (including vulnerable populations*). |
| **Low** | The project will **minimally improve** the safety and/or security, **minimally increase** the reliability of the transportation network, and benefit a **limited number and variety** of users (including vulnerable populations*). |

**Vulnerable populations include: Individuals with disabilities, persons over age 65, and low-income, minority, or linguistically-challenged persons.*

**Section C. Consistency & Contributions to Transportation-focused Metro Vision Objectives ..... 20%**

Metro Vision guides DRCOG's work and establishes shared expectations with our region's many and various planning partners. The plan outlines broad outcomes, objectives, and initiatives established by the DRCOG Board to make life better for the region's residents. The degree to which the outcomes, objectives, and initiatives identified in Metro Vision apply in individual communities will vary. Metro Vision has historically informed other DRCOG planning processes, such as the TIP.

| | |
|---|---|
| **High** | The project will **significantly** address Metro Vision transportation-related objectives and is determined to be in the **top third** of applications based on the magnitude of benefits. |
| **Medium** | The project will **moderately** address Metro Vision transportation-related objectives and is determined to be in the **middle third** of applications based on the magnitude of benefits. |
| **Low** | The project will **slightly or not at all** address Metro Vision transportation-related objectives and is determined to be in the **bottom third** of applications based on the magnitude of benefits. |

**Section D. Leveraging of non-Subregional Share funds** ("overmatch") **..... 10%**

Scores are assigned based on the percent of outside funding sources (non-Subregional Share).

| | | |
|---|---|---|
| % of Outside Funding (non-Subregional Share) | **High** | 60% and above |
| | **Medium** | 30-59% |
| | **Low** | 29% and below |

## Part 3 | Project Data – Calculations and Estimates

Based on the applicant's project elements, sponsors will complete the appropriate sections to estimate usage or benefit values. Part 3 is not scored, and the quantitative responses should be used to back-up the applicant's qualitative narrative.

# Part 1 Base Information

| | |
|---|---|
| **1.** Project Title | **SH 42 Conceptual Design Plan for the Reconfiguration of SH 42: Including Highway Access Control, Multimodal and Intersection improvements** |
| **2.** Project *Start/End* points or Geographic Area<br>*Provide a map with submittal, as appropriate* | SH 42 from Empire Road/Lock Street to SH 7/Arapahoe Road (Map, Attachment 1) |
| **3.** Project Sponsor *(entity that will construct/ complete and be financially responsible for the project)* | City of Louisville |
| **4.** Project Contact Person, Title, Phone Number, and Email | Megan Davis, Deputy City Manager, 303-335-4539, mdavis@louisvilleco.gov |
| **5.** Does this project touch CDOT Right-of-Way, involve a CDOT roadway, access RTD property, or request RTD involvement to operate service? | X☐ Yes ☐ No<br>*If yes, provide applicable concurrence documentation with submittal*<br>(Concurrence approval, Attachment 2) |

**6.** What planning document(s) identifies this project?

X☐ DRCOG 2040 Fiscally Constrained Regional Transportation Plan (2040 FCRTP)

SH 42 is within the DRCOG FCRTP road network. It is identified as an unfunded vision project for additional lanes. It is also identified as a potential regional corridor for 2040 MV rapid transit system expansion.

X☐ Local plan:

SH 42 Gateway Plan

SH 7 PEL 75th St. to SH 287

https://assets.bouldercounty.org/wp-content/uploads/2018/04/SH7-PEL-Final-Report-Appendix-A-Corridor-Conditions.pdf

RTD NAMS Study

https://www.dropbox.com/s/1uj1mt3z1h80ya4/Final%20Report%20508%5B1%5D.pdf?dl=0

☐ Other(s):

*Provide link to document/s and referenced page number if possible, or provide documentation with submittal*

**7.** Identify the project's **key elements**.

- ☐ Rapid Transit Capacity (2040 FCRTP)
- X☐ Transit Other: Transit Priority Lanes
- X☐ Bicycle Facility
- X☐ Pedestrian Facility
- X☐ Safety Improvements
- X☐ Roadway Capacity or Managed Lanes (2040 FCRTP)
- X☐ Roadway Operational

Grade Separation
- ☐ Roadway
- ☐ Railway
- ☐ Bicycle
- ☐ Pedestrian

- ☐ Roadway Pavement Reconstruction/Rehab
- ☐ Bridge Replace/Reconstruct/Rehab
- X☐ Study
- ☐ Design
- ☐ Other:

**8.** **Problem Statement** What specific Metro Vision-related regional problem/issue will the transportation project address?

SH 42 is considered a principal arterial in the 2040 FCRTP. The corridor spans from Louisville to Lafayette, and has high vehicle volume with current cars per day (ADT) of 22,600 and DRCOG projections for 2040 ADT of 28,000. According to DRCOG data, population and employment densities along the route are anticipated to continue to grow from 2010 to 2040. This corridor has been identified in the DRCOG MVRTP as one of the key congested corridors in 2016. Economic and population growth in the area has contributed to increased traffic volumes, as well as increased demand for multimodal facilities to accommodate walking, bicycling and transit. Developments that accommodate vulnerable populations, including two senior living facilities and affordable housing for families and individuals with disabilities has also been developed along the corridor.

In terms of functionality, SH 42 has only two lanes, and with more than 20,000 ADT turning vehicles often cause delays. The highway operates at a LOS F according to the Highway Capacity Manual. Travel times along SH 42 between South Boulder Road and the Northwest Parkway were measured and demonstrated considerable delays. (Attachment 3) The major intersections along SH 42 experience high crash rates, with 59 crashes, 14 resulting in injury, occurring at the intersection of SH 7 and SH 42 between 2010 – 2014 (Source: SH 7 PEL 75th St. to SH 287), and 63 crash occurrences at SH 42 and South Boulder Road between 2013 - 2015. A pedestrian fatality occurred in 2017 at SH 42 and Hecla Drive.

The local communities of Louisville and Lafayette have identified the need to improve the overall design and use of the corridor in order to improve safety and reliability, provide consistent, continuous multimodal facilities for walking and biking, improve transit access, and reduce traffic congestion.

The proposed plan will provide design for improvements that address transportation, growth and land development challenges outlined in the DRCOG Metro Vision plan, including: increasing mobility options for individuals without a car or with mobility challenges, reducing traffic congestion, reducing traffic crashes and improving overall safety, and addressing access issues related to population and economic growth and development along this corridor.

**9.** Define the **scope** and **specific elements** of the project.

The project scope is to complete a conceptual design plan for the SH 42 corridor that would include the following elements:

- **Review of current corridor plans and reconfigure vehicle and multimodal use within the existing corridor**. The City of Louisville completed a SH 42 Gateway Corridor Plan in 2013 (The Gateway Plan), and a Transportation Master Plan for the city is currently underway. Many of the recommendations have been implemented from the Gateway Plan, including the installation of traffic signals and medians in some areas. However, current input and analysis gathered as a part of the City's 2019 Transportation Master Plan, a 2018 traffic volume measurement, and updated forecasts suggest that the SH 42 Gateway Corridor Plan may not have provided optimal solutions to address several competing goals throughout the corridor. The study was completed before the regional RTD transit study – Northwest Area Mobility Study (NAMS) – and while the Gateway Plan contemplated transit, it does not include the final NAMS recommendations for enhanced transit along SH 42. In addition, several of the access recommendations on SH 42 were included based upon a secondary road network that will not be installed, and further analysis with updated utilization data has demonstrated that some of the access recommendations will cause more significant travel delays on SH 42 than originally identified. Further, the Gateway Plan proposed 3 lane configuration of SH 42 through Louisville does not meet future capacity needs or maximize the use of the corridor for transit and multimodal use in a safe manner.
- **Improve multimodal connectivity throughout the entire corridor**. There is currently no contiguous bike lane, sidewalk, path or walkway that extends SH 42 between Empire Road in Louisville to Arapahoe Road in Lafayette. Sidewalks exist along various sections of the road, and shoulder width varies throughout. With increased density and commercial development in the area, more residents of both communities are seeking alternate modes to reach amenities such as parks, trails, grocery stores, shopping and other services. Many commuters use the corridor, and with the implementation of BRT on SH 7 from Boulder to Brighton and eventual connection to enhanced transit on SH 42, even more employees coming into Louisville and Lafayette will utilize the SH 42 corridor. This plan will provide a conceptual design for a concrete, separated bicycle/pedestrian path along SH 42

for this entire stretch, and consider necessary pedestrian crossings associated with the bike/ped path at all intersections.

- **Intersection improvements at key locations, including SH 42 and South Boulder Road, Baseline Road and SH 7/Arapahoe Road.** The City of Louisville Transportation Master Plan has made recommendations for intersection improvements at SH 42 and South Boulder Road, which need to be prioritized/agreed upon by the community and conceptually designed. Recent improvements and reconfiguration of the Baseline and SH 42 intersection has been completed, but no facilities for bicycle/pedestrian improvements have been included. Once a bike/ped trail alignment is identified, some improvements will be necessary at this crossing to accommodate alternate modes. The intersection of SH 7 and SH 42 is a high priority due to the ongoing planning of the SH 7 BRT project. Intersection improvements are needed in this area, and will need to be consistent with the recommendations of the SH 7 BRT PEL.
- **Consideration/accommodation of future side access points.** The City of Louisville is mostly built-out in these areas, but there will be some additional development along SH 42 in the coming years, including the Coal Creek Station Development southwest of the South Boulder Road and SH 42 intersection that could require changes to access onto SH 42. The City of Lafayette has planned developments between Pascal Drive (the boundary between the two communities) and Baseline Road that will necessitate additional access onto SH 42, as well as one signal that is planned at Indian Peaks Trail and SH 42. The City of Louisville has planned signals at Short Street and Hecla Drive. Hecla Drive has not been approved by CDOT, but is necessary to serve the growth and special populations in that area. The infrastructure for these signals and accesses are either currently in design or will be designed as a part of future development, but they must be considered in the overall conceptual design of the SH 42 corridor.
- **Consideration/accommodation of future enhanced transit within the SH 42 corridor.** The 2014 NAMS study included a proposal for enhanced transit along the SH 42 corridor. The potential transit line would provide a north-south connection from Lafayette and Louisville to the US 36 US 36 Flatiron Flyer BRT. The study recognized that with limited right of way and narrow shoulder widths, exclusive lane opportunities for BRT would not be feasible along SH 42. However, with no transit currently available along SH 42, this plan will allow the communities to design infrastructure that could support future transit, including the enhanced transit conceptualized through NAMS.

**10.** What is the status of the proposed project?
The two jurisdictions are at various stages of planning for projects along the corridor. The City of Louisville has high-level conceptual design for some aspects of the portion of SH 42 between Empire Road and Paschal Drive, and has completed design for the intersection improvements at Short Street and Hecla Street. Louisville has been meeting with Boulder County Open Space and has a conceptual alignment identified for the bike/ped path along SH 42 between Empire Road and South Boulder Road, but no designs at this time. In addition, the City's Transportation Master Plan (scheduled to be completed this summer) will include conceptual design for a 5 lane configuration of SH 42 between Empire and Paschal. (Attachment 4) The City of Lafayette has done little to no planning for the portion of SH 42 from Paschal Drive to SH 7. Some geometric and signal improvements have been made at SH 42 and Baseline Road, and the SH 7 PEL has provided an analysis of existing traffic conditions, safety analysis, transit infrastructure and cursory resource and environmental analysis in the SH 7/SH 42/96th St intersection. This plan will bring both entities up to the same level of planning with regard to future plans for SH 42.

| | |
|---|---|
| **11.** Would a smaller federal funding amount than requested be acceptable, while maintaining the original intent of the project? | ☐ Yes ☐X No |

*If yes, define smaller meaningful limits, size, service level, phases, or scopes, along with the cost for each.*

## A. Project Financial Information and Funding Request

| | | |
|---|---|---|
| **1. Total Project Cost** | | **$500,000** |
| **2. Total amount of DRCOG Subregional Share Funding Request** *(no greater than **$20 million** and not to exceed **50% of the total project cost**)* | **$350,000** | **70%** of total project cost |
| **3. Outside Funding Partners** ***(other than DRCOG Subregional Share funds)*** List each funding partner and contribution amount. | **$$ Contribution Amount** | **% of Contribution to Overall Total Project Cost** |
| City of Louisville | $75,000 | 15% |
| City of Lafayette | $75,000 | 15% |
| | | |
| **Total amount of funding provided by other funding partners** *(private, local, state, Subregion, or federal)* | **$150,000** | 30% |

**Funding Breakdown** (year by year)*

**The proposed funding plan is not guaranteed if the project is selected for funding. While DRCOG will do everything it can to accommodate the applicants' request, final funding will be assigned at DRCOG's discretion within fiscal constraint. Funding amounts must be provided in year of expenditure dollars using an inflation factor of 3% per year from 2018.*

| | FY 2020 | FY 2021 | FY 2022 | FY 2023 | Total |
|---|---|---|---|---|---|
| **Federal Funds (Subregional)** | $350,000 | $0 | $0 | $ | **$350,000** |
| **State Funds** | $0 | $0 | $0 | $ | **$** |
| **Local Funds** | $150,000 | $ | $0 | $ | **$150,000** |
| **Total Funding** | $500,000 | $ | $0 | $ | **$500,000** |
| **4. Phase to be Initiated** *Choose from Design, ENV, ROW, CON, Study, Service, Equip. Purchase, Other* | Design | | | | |

**5. By checking this box**, the applicant's Chief Elected Official (Mayor or County Commission Chair) or City/County Manager for local governments or Agency Director or equivalent for others, has certified it allows this project request to be submitted for DRCOG-allocated funding and will follow all DRCOG policies and state and federal regulations when completing this project, if funded. ☒

# Part 2 Evaluation Criteria, Questions, and Scoring

## A. Regional significance of proposed project

WEIGHT **40%**

*Provide **qualitative and quantitative** (derived from Part 3 of the application) responses to the following questions on the regional significance of the proposed project.*

**1.** Why is this project regionally important?

SH 42 is an important regional arterial identified in the DRCOG Metro Vision plan. The corridor directly serves the communities of Louisville and Lafayette, as well as Superior, Broomfield and many parts of unincorporated Boulder County. In addition, many people in the metro region employed in Southeast Boulder County utilize the corridor to access work.

The City of Louisville expects to see a 28% increase in employment growth by 2040 (over 2015 employment levels), with most of the growth occurring in the northern and downtown portions of the City (Attachment 5). The City's current commuting patterns indicate that 93% of the people who work in Louisville commute from other places, with 45% in-commuting from the US 36 corridor. The highest density of Louisville employees live in Superior, Broomfield, Thornton and Westminster. SH 42 is the primary corridor for people coming into Louisville to work every day. Likewise, Lafayette sees 45% of its workforce commuting in by way of US 36. With more corridors offering access into Lafayette from US 36, including 287, not all but some of these commuters would be utilizing SH 42. Louisville has a high share of living wage jobs as compared with the Boulder County or the Denver Metro regional average, so the area provides well-paying jobs which attract a diverse workforce from the broader region.

**2.** Does the proposed project cross and/or benefit multiple **municipalities**? If yes, which ones and how?

Yes, this project travels through the Cities of Louisville and Lafayette, as well as Open Space lands jointly owned by the Cities and Boulder County. It will directly benefit the Cities of Louisville and Lafayette, and provide benefit to the broader region by planning improvements to the SH 42 corridor. The plan will design facility improvements that will reduce traffic delays, improved safety, particularly for vulnerable populations, and increased bicycle and pedestrian use. The terminal point of the study and the SH 42 corridor to the north is SH 7, which is a critical east-west corridor serving Boulder and Adams County, and is currently under consideration for future BRT implementation. When the BRT is completed, the connection of the SH 42 corridor and future transit on this corridor will be important for riders connecting to Lafayette and Louisville.

**3.** Does the proposed project cross and/or benefit another **subregion(s)**? If yes, which ones and how?

Yes. On the south/east end, SH 42 connects to SH 287, serving as a primary corridor linking the City and County of Broomfield to Louisville and Lafayette. In addition, traffic studies illustrating commuting patterns to Louisville's Technology Center (CTC) have demonstrated a significant amount of in-commuting from US 36 east of the Broomfield interchange, with vehicles exiting US 36 at the Northwest Parkway/Interlocken loop, travelling north to 96th Street onto SH 42 in Louisville. Traffic speeds decrease and wait times increase once vehicles reach SH 42 at 96th Street. This project will create a plan to address the needs in this corridor, which will impact transportation users into and beyond the Boulder County and Broomfield County subregions.

As described above, the SH 42 connection to SH 7 will be important in connecting to the west and east.

**4.** How will the proposed project address the specific transportation problem described in the **Problem Statement** *(as submitted in Part 1, #8)*?

This project will address several transportation problems by creating a conceptual design plan for future projects along SH 42. The plan will address the increased demand for multimodal pedestrian and bicycle transportation options by identifying an alignment and design for a cohesive, comprehensive multimodal facility along the SH 42 corridor. The plan will seek to reduce safety concerns at major intersections and all along the SH 42 corridor by separating multimodal uses, improving intersection geometrics and improving the road configurations. The plan will address the current and future congestion and travel time delays by creating a plan to reconfigure the use of the corridor and right of way, including the accommodation of transit. And, the plan will address future/anticipated access demands by Louisville and Lafayette along the corridor.

**5.** One foundation of a sustainable and resilient economy is physical infrastructure and transportation. How will the **completed** project allow people and businesses to thrive and prosper?

There has been significant economic growth in this corridor. SH 42 was previously a rural highway, with little development and economic activity throughout. While the Cities have preserved much of this rural character by purchasing open spaces along the corridor (jointly between Boulder County, City of Louisville and City of Lafayette), several areas along the corridor have been developed or are in various stages of planning for development. The core section of the SH 42 in Louisville includes several existing and anticipated access points that support economic prosperity of the area that is directly adjacent to Louisville's downtown area (directly to the west of SH 42, including the Downtown East Louisville redevelopment or "DELO" area). There is a sports complex just east of downtown (east of SH 42) which serves as an economic draw for visitors to the community. Just north of South Boulder Road, significant residential and commercial development has occurred and it has become increasingly important for this portion of the community to have multimodal connections to economic activity, including the Louisville downtown and the SH 42 North areas. For Lafayette, there are several commercial and residential developments planned along SH 42 north of Paschal Drive (which serves as the border of Louisville and Lafayette), and the corridor will see more economic opportunity within the next five years. This plan will design transportation infrastructure that supports a sustainable transportation network surrounding SH 42, allowing for regional traffic to effectively move through the corridor and accommodate the access needs of the communities living within the corridor.

**6.** How will connectivity to different travel modes be improved by the proposed project?

This project will provide connectivity for bicycles and pedestrians where no contiguous connectivity exists. In addition, there is currently no transit service along SH 42 (except a small leg of the 228, but with no stops on SH 42). The NAMS study included a proposal for enhanced transit along SH 42, and one of the goals of this plan will be to design roadway improvements that would accommodate future transit service.

**7.** Describe funding and/or project partnerships *(other subregions, regional agencies, municipalities, private, etc.)* established in association with this project.

The project is a direct partnership between the Cities of Louisville, Lafayette and CDOT. The Cities will each contribute funding for the study, and intend to work together to identify conceptual designs that provide consistency for various travel modes throughout the entire corridor. Our communities have a long history of successful collaboration and partnership, as evidenced by our joint open space purchases in this corridor and our regional trail successes.

Letters of support in Attachment 6

## B. DRCOG Board-approved Metro Vision TIP Focus Areas

WEIGHT **30%**

*Provide **qualitative and quantitative** (derived from Part 3 of the application) responses to the following questions on how the proposed project addresses the three DRCOG Board-approved Focus Areas (in bold).*

1. Describe how the project will **improve mobility infrastructure and services for vulnerable populations (including improved transportation access to health services).**

Over the past ten years, the SH 42 corridor in Louisville has grown significantly. There are approximately 1,100 new dwelling units in this part of Louisville, including the Boulder County Housing Authority Kestrel development, the Foundry (approved but not yet constructed), Coal Creek Station (approved but not yet constructed), Steel Ranch, Steel Ranch South, Lanterns, Balfour, and North End. This increased development has changed the conditions and character of the corridor from rural to more urban/suburban. This development has resulted in increased vehicle traffic generated from within the region, as well as increased pedestrian traffic throughout the area.

Together, these residential communities result in one of Louisville's highest density areas of vulnerable populations, including persons over 65 year of age, minority persons, low-income households, linguistically-challenged persons, individuals with disabilities, households without a motor vehicle and children ages 6 – 17.

Within a mile of this corridor (center of the corridor) there are nearly 4,000 persons over age 65, 2,260 minority persons, 384 linguistically challenged persons, 2,718 people with disabilities and 4,958 children between the age of 6 – 17. There are 2,163 low-income households and 529 households without a car. This represents a high proportion of residents in Louisville and Lafayette that are considered vulnerable and potentially mobility challenged. This corridor is an important transportation connector in their lives.

The Boulder County Housing Authority (BCHA) Kestrel development at SH 42 and Hecla Drive includes a unique population of people with mobility challenges: Of the 341 total residents 128 (37%) are seniors 55 and older, and 60 (18%) have a disability (that qualifies them for federal housing for disabled individuals). Another 86 residents under 18 also live in the development. Many of the residents don't have cars and rely on public transit and/or walking to access employment, food and other basic needs, activities and amenities. A recent car count indicated that there are fewer than 200 vehicles owned within the community.

The Balfour Senior Living Louisville Campus is located east of SH 42 on Hecla Drive, across the street from the Kestrel community. This Balfour campus is comprised of more than 400 residents averaging 85 years of age. The majority of residents reside less than .3 mile from the intersection of SH 42 and Hecla Dr. and are of an age that mandates managing canes, walkers, wheelchairs, or motorized scooters for their walking mobility.

For many of the residents in both of these areas, the nearest healthcare amenities are located 1.6 miles due east on South Boulder Road at the new Clinica Family Health Services (the FQHC clinic serving southeast Boulder County). However, while there is bus service along South Boulder Road, the mobility access to get from Kestrel to the bus stop on SBR requires travel along SH 42, and pedestrian facilities are not easily accessible or don't exist along the entire corridor.

2. Describe how the project will **increase reliability of existing multimodal transportation network.**

Multimodal travel on SH 42 is currently dangerous and uninviting due to lack of infrastructure, especially during the AM and PM peak hours, when commuter traffic is heavy coming into Louisville and Lafayette. With no current continuous bicycle and pedestrian facility, and heavy traffic along the highway, this travel corridor for modes other than a vehicle is not a viable option. Estimated bicycle use on SH 42 in Louisville is currently approximately 10 cyclists per day. Based on comperable multi-use trail utilization in other parts of the City (Coal Creek regional trail segments and Boulder to Longmont trail segments), we would expect an estimated 250 daily users on the trail. This would reduce the vehicle usage, particularily for short trips (less than 3 miles) which make up 31% of all trips within, to or from Louisville. Further, no transit exists within the corridor. The proposed plan would increase the reliability by establishing multimodal transportation options where they currently are not in existance or possible.

3. Describe how the project will **improve transportation safety and security.**

The plan will provide for at-grade separated bike and pedestrian facilities that will provide safety for multimodal uses on this heavily traveled corridor. This approach will provide a safety improvement for vehicles and pedestrians/cyclists alike. In addition, the plan will address the current configuration for vehicles along the entire corridor, the safe installation of access improvements, and safety improvements at intersections.

## C. Consistency & Contributions to Transportation-focused Metro Vision Objectives

WEIGHT **20%**

*Provide **qualitative and quantitative** responses (derived from Part 3 of the application) to the following items on how the proposed project contributes to Transportation-focused Objectives (in bold) in the adopted Metro Vision plan. Refer to the expanded Metro Vision Objective by clicking on links.*

| MV objective 2 | **Contain urban development in locations designated for urban growth and services**. |
|---|---|

**1.** Will this project help focus and facilitate future growth in locations where urban-level infrastructure already exists or areas where plans for infrastructure and service expansion are in place?

☐ X Yes ☐ No

In Louisville portions of the corridor are nearing build-out, however there are a few planned developments remaining. In Lafayette, there is also some additional development planned and approved along the corridor. This plan will consider this development and planned access points, and also influence infrastructure and service expansions to serve this growth.

| MV objective 3 | **Increase housing and employment in urban centers**. |
|---|---|

**2.** Will this project help establish a network of clear and direct multimodal connections within and between urban centers, or other key destinations?

☐ X Yes ☐ No

One of the goals of this project is to create a clear and continuous multimodal connection within the SH 42 corridor. There are urban centers throughout this corridor in both Louisville and Lafayette, including residential, commercial, retail and office as well as many amenities such as the Louisville Sports Complex and Indian Peaks Golf Course. With 28,000 ADT, the busy nature of the corridor makes it difficult for pedestrians and bicycles to travel safety and comfortably. The multimodal connections developed through this plan will provide alternate modes of travel for people living in the corridor.

| MV objective 4 | **Improve or expand the region's multimodal transportation system, services, and connections**. |
|---|---|

**3.** Will this project help increase mobility choices within and beyond the region for people, goods, or services?

☐ X Yes ☐ No

This project will increase the capacity of this multimodal regional roadway, SH 42. It will provide additional mobility choices within the SH 42 corridor by creating conceptual design plans for biking, walking and for transit.

| MV objective 6a | **Improve air quality and reduce greenhouse gas emissions**. |
|---|---|

**4.** Will this project help reduce ground-level ozone, greenhouse gas emissions, carbon monoxide, particulate matter, or other air pollutants?

☐ X Yes ☐ No

The plan will identify multimodal improvements that will support a shift in uses to alternate modes. The estimated reduction in GHG emissions is 162 lbs. Since this state highway runs directly through the Cities of Louisville and Lafayette, this will result in reductions in particulate matter, improving local air quality.

| MV objective 7b | **Connect people to natural resource or recreational areas.** |
|---|---|

**5.** Will this project help complete missing links in the regional trail and greenways network or improve other multimodal connections that increase accessibility to our region's open space assets? ☐ X Yes ☐ No

There are many regional trails and open spaces within the SH 42 corridor. The Highline trail connects trail systems within Louisville and Lafayette and, an underpass is planned for construction just north of Hecla Drive to support this connection. The Cities have made significant investments in open space and trails along SH 42 – many of them joint purchases that enhance the greenways and preserve open spaces and agricultural heritage along the corridor. The Harney-Lastoka property, located on SH 42 in Louisville includes trails, an organic garden stand, and ball fields. The multimodal connections along SH 42 will provide increased accessibility to all of these assets.

| MV objective 10 | **Increase access to amenities that support healthy, active choices.** |
|---|---|

**6.** Will this project expand opportunities for residents to lead healthy and active lifestyles? ☐ X Yes ☐ No

By providing 2 miles of contiguous multi-use pathway along SH 42, there will be expanded opportunities for walking and bicycling instead of driving. Currently there is not a shoulder stretching this span of SH 42, nor is there a bike lane, so bikes do not utilize this corridor. This plan will provide multimodal improvements that will support cyclists commuting on SH 42.

| MV objective 13 | **Improve access to opportunity.** |
|---|---|

**7.** Will this project help reduce critical health, education, income, and opportunity disparities by promoting reliable transportation connections to key destinations and other amenities? ☐ X Yes ☐ No

With no transit opportunities along SH 42, and limited facilities to support pedestrian mobility, this plan will increase the ability for vulnerable populations to access jobs, education, and health services. Connections to Louisville and Lafayette downtown areas, and other job centers lie along the corridor. Expanding transit along the corridor will provide linkages to the existing service network, reaching the broader region for these opportunities and services.

| MV objective 14 | **Improve the region's competitive position.** |
|---|---|

**8.** Will this project help support and contribute to the growth of the region's economic health and vitality? ☐ X Yes ☐ No

SH 42 is a key corridor to the Cities of Louisville and Lafayette, as well as the broader region. This plan will help ensure the region remains competitive by improving the multimodal transportation facilities that businesses depend on for local, regional and global customers. The plan represents a coordinated local and regional effort to planning.

## D. Project Leveraging

WEIGHT **10%**

| | | |
|---|---|---|
| **9.** What percent of outside funding sources (non-DRCOG-allocated Regional Share funding) does this project have? | | 80%+ outside funding sources .....High<br>60-79% .....Medium<br>59% and below .....Low |

| Part 3 | **Project Data Worksheet – Calculations and Estimates**<br>*(Complete all subsections applicable to the project)* |
|---|---|

## A. Transit Use

| | |
|---|---|
| **1.** Current ridership weekday boardings | |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | | | |
| 2040 | | | |

| Transit Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|
| **3.** Enter estimated additional daily transit boardings after project is completed.<br>*(Using 50% growth above year of opening for 2040 value, unless justified)*<br>*Provide supporting documentation as part of application submittal* | | |
| **4.** Enter number of the additional transit boardings (from #3 above) that were previously using a different transit route.<br>(Example: **{#3 X 25%}** *or other percent, if justified)* | | |
| **5.** Enter number of the new transit boardings (from #3 above) that were previously using other non-SOV modes (walk, bicycle, HOV, etc.)<br>(Example: **{#3 X 25%}** *or other percent, if justified)* | | |
| **6.** = Number of SOV one-way trips reduced per day (#3 – #4 – #5) | | |
| **7.** Enter the value of **{#6 x 9 miles}**. (= **the VMT reduced per day**)<br>*(Values other than the default 9 miles must be justified by sponsor; e.g., 15 miles for regional service or 6 miles for local service)* | | |
| **8.** = Number of pounds GHG emissions reduced (#7 x 0.95 lbs.) | | |
| **9.** If values would be distinctly greater for weekends, describe the magnitude of difference: | | |
| **10.** If different values other than the suggested are used, please explain here: | | |

## B. Bicycle Use

| | |
|---|---|
| **1.** Current weekday bicyclists | 10 |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | 21969 | 9917 | **31886** |
| 2040 | 23623 | 10663 | **34286** |

| Bicycle Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|

| | | |
|---|---|---|
| **3.** Enter estimated additional weekday one-way bicycle trips on the facility after project is completed. | 120 | 240 |
| **4.** Enter number of the bicycle trips (in #3 above) that will be diverting from a different bicycling route. (Example: **{#3 X 50%}** *or other percent, if justified)* | 0 | 0 |
| **5.** = Initial number of new bicycle trips from project (#3 – #4) | 120 | 240 |
| **6.** Enter number of the new trips produced (from #5 above) that are replacing an SOV trip. (Example: **{#5 X 30%}** *(or other percent, if justified)* | 40 | 72 |
| **7.** = Number of SOV trips reduced per day (#5 - #6) | 80 | 168 |
| **8.** Enter the value of **{#7 x 2 miles}**. (= the VMT reduced per day) *(Values other than 2 miles must be justified by sponsor)* | **160** | **336** |
| **9.** = Number of pounds GHG emissions reduced (#8 x 0.95 lbs.) | 152 | 319.2 |
| **10.** If values would be distinctly greater for weekends, describe the magnitude of difference: | | |
| **11.** If different values other than the suggested are used, please explain here: Since there is currently no bike lane or trail, so we have not included diversion from another bicycle route. | | |

## C. Pedestrian Use

| | |
|---|---|
| **1.** Current weekday pedestrians (include users of all non-pedaled devices) | 25 |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | 21969 | 9917 | **31886** |
| 2040 | 23623 | 10663 | **34286** |

| Pedestrian Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|
| **3.** Enter estimated additional weekday pedestrian one-way trips on the facility after project is completed | 120 | 240 |
| **4.** Enter number of the new pedestrian trips (in #3 above) that will be diverting from a different walking route (Example: **{#3 X 50%}** *or other percent, if justified)* | 60 | 120 |
| **5.** = Number of new trips from project (#3 – #4) | 60 | 120 |
| **6.** Enter number of the new trips produced (from #5 above) that are replacing an SOV trip. (Example: **{#5 X 30%}** *or other percent, if justified)* | 20 | 40 |
| **7.** = Number of SOV trips reduced per day (#5 - #6) | 40 | 80 |
| **12.** Enter the value of **{#7 x .4 miles}**. (**= the VMT reduced per day**) *(Values other than .4 miles must be justified by sponsor)* | 16 | 32 |
| **8.** = Number of pounds GHG emissions reduced (#8 x 0.95 lbs.) | 15.2 | 30.4 |

| | |
|---|---|
| **9.** | If values would be distinctly greater for weekends, describe the magnitude of difference: |
| **10.** | If different values other than the suggested are used, please explain here: |

## D. Vulnerable Populations

| | Vulnerable Populations | Population within 1 mile |
|---|---|---|
| Use Current Census Data | **1.** Persons over age 65 | 3966 |
| | **2.** Minority persons | 2260 |
| | **3.** Low-Income households | 2163 |
| | **4.** Linguistically-challenged persons | 384 |
| | **5.** Individuals with disabilities | 2718 |
| | **6.** Households without a motor vehicle | 529 |
| | **7.** Children ages 6-17 | 4958 |
| | **8.** Health service facilities served by project | 1 |

## E. Travel Delay *(Operational and Congestion Reduction)*

Sponsor must use industry standard Highway Capacity Manual (HCM) based software programs and procedures as a basis to calculate estimated weekday travel delay benefits. *DRCOG staff may be able to use the Regional Travel Model to develop estimates for certain types of large-scale projects.*

| | | |
|---|---|---|
| **1.** | Current ADT (average daily traffic volume) on applicable segments | 22,600 |
| **2.** | 2040 ADT estimate | 28,000 |
| **3.** | Current weekday vehicle hours of delay (VHD) (before project) | 1883 |

| | Travel Delay Calculations | Year of Opening |
|---|---|---|
| **4.** | Enter calculated future weekday VHD (after project) | 0 |
| **5.** | Enter value of **{#3 - #4} =** Reduced VHD | 0 |
| **6.** | Enter value of **{#5 X 1.4}** = **Reduced person hours of delay**<br>*(Value higher than 1.4 due to high transit ridership must be justified by sponsor)* | 0 |
| **7.** | **After project peak hour congested average travel time reduction** per vehicle (includes persons, transit passengers, freight, and service equipment carried by vehicles).<br>*If applicable, denote unique travel time reduction for certain types of vehicles* | 0 |
| **8.** | If values would be distinctly different for weekend days or special events, describe the magnitude of difference. | |
| **9.** | If different values other than the suggested are used, please explain here: | |

## F. Traffic Crash Reduction

| | | |
|---|---|---|
| **1.** Provide the current number of crashes involving motor vehicles, bicyclists, and pedestrians *(most recent **5-year** period of data)* | | Sponsor must use industry accepted crash reduction factors (CRF) or accident modification factor (AMF) practices *(e.g., NCHRP Project 17-25, NCHRP Report 617, or DiExSys methodology).* |
| **Fatal** crashes | 0 | |
| **Serious Injury** crashes | 0 | |
| **Other Injury** crashes | 0 | |
| **Property Damage Only** crashes | 0 | |
| **2.** Estimated reduction in crashes applicable to the project scope *(per the five-year period used above)* | | |
| **Fatal** crashes reduced | 0 | |
| **Serious Injury** crashes reduced | 0 | |
| **Other Injury** crashes reduced | 0 | |
| **Property Damage Only** crashes reduced | 0 | |

## G. Facility Condition

Sponsor must use a current industry-accepted pavement condition method or system and calculate the average condition across all sections of pavement being replaced or modified.
Applicants will rate as: Excellent, Good, Fair, or Poor

| | |
|---|---|
| ***Roadway Pavement*** | |
| 1. Current roadway pavement condition | Low/Poor |
| 2. Describe current pavement issues and how the project will address them. | |
| 3. Average Daily User Volume | 22,800 |
| ***Bicycle/Pedestrian/Other Facility*** | |
| 4. Current bicycle/pedestrian/other facility condition | Poor |
| 5. Describe current condition issues and how the project will address them. | |
| Currently, bicycle and pedestrian facilities are poor or non-existent through the corridor. There are some sidewalks along various section of the corridor, but no continuous, consistent facility for these modes to connect the Cities of Louisville and Lafayette. | |
| 6. Average Daily User Volume | 0 |

## H. Bridge Improvements

| |
|---|
| 1. Current bridge structural condition from CDOT |
| 2. Describe current condition issues and how the project will address them. |
| 3. Other functional obsolescence issues to be addressed by project |

| | |
|---|---|
| 4. Average Daily User Volume over bridge | |

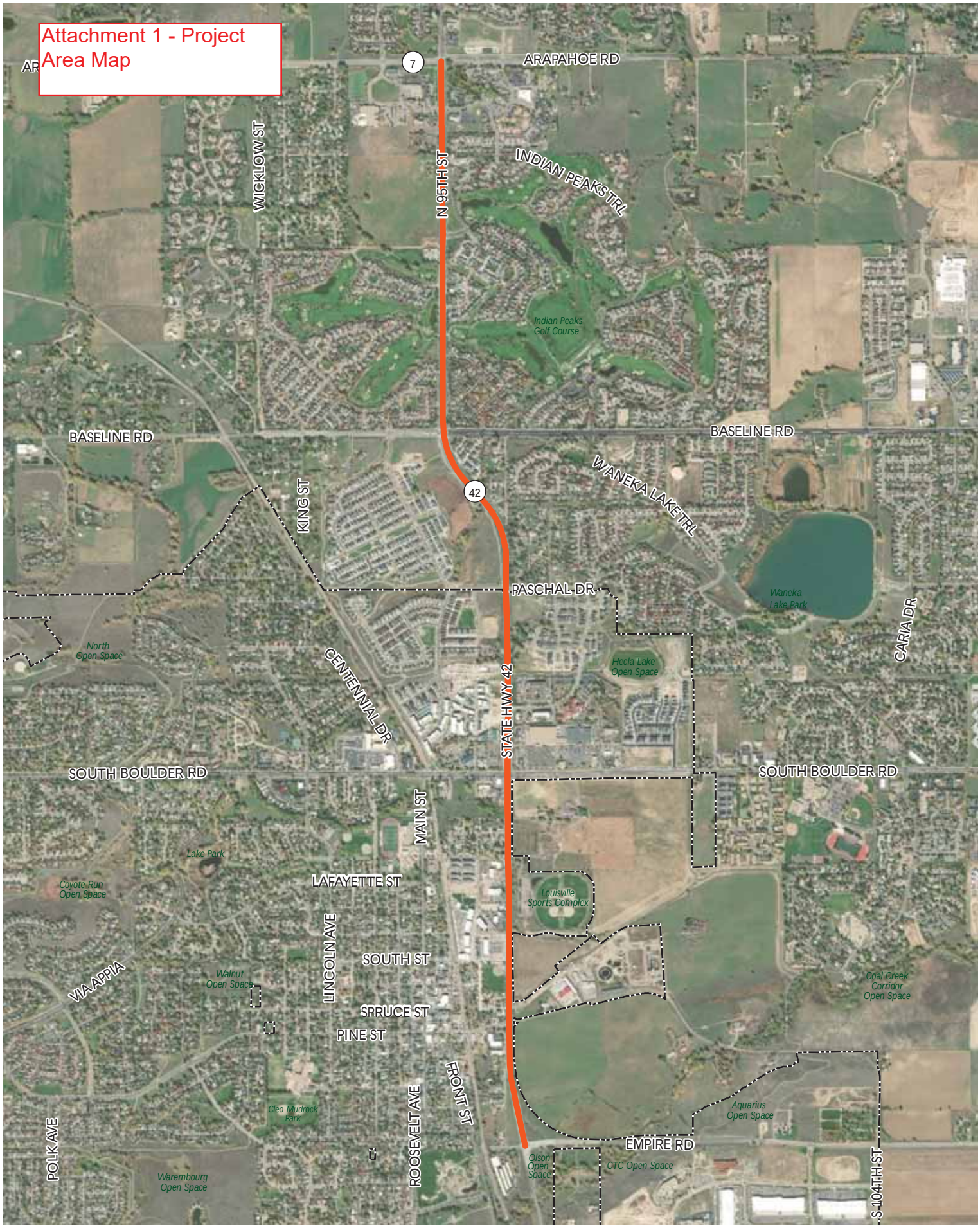
## I. Other Beneficial Variables *(identified and calculated by the sponsor)*

| | |
|---|---|
| 1. | |
| 2. | |
| 3. | |

## J. Disbenefits or Negative Impacts *(identified and calculated by the sponsor)*

| | |
|---|---|
| **1.** Increase in VMT? *If yes, describe scale of expected increase* | ☐ Yes ☐ No |
| | |
| **2.** Negative impact on vulnerable populations | |
| **3.** Other: | |

Attachment 1 - Project Area Map




0 0.25 0.5 1 Miles

State Highway 42 Corridor

Attachment 2

COLORADO
Department of Transportation
Region 4

Regional Director's Office
10601 W. 10th Street
Greeley, CO 80634-9000

February 7, 2019

Megan Davis
City of Louisville
749 Main Street
Louisville, CO 80027

Conceptual Design Plan for Reconfiguration of SH 42

Dear Ms. Davis,

RE: CDOT Region 4 Support Request for DRCOG TIP Sub-Regional Call FY20-23

This letter is to inform you that the Colorado Department of Transportation (CDOT) Region 4 staff concurs with the following City of Louisville application for the DRCOG Sub-Regional FY20-23 TIP Call. This applies only to the Conceptual Design Plan for Reconfiguration of SH 42 project, in the event it is selected by DRCOG as a sub-regional project around Summer 2019. If this project is awarded DRCOG funds at a later date, the Local Agency (LA) will need to re-affirm CDOT's concurrence at that time.

This concurrence is conditionally granted, based on the scope as described. CDOT does, however, retain final decision-making authority for all improvements and changes within CDOT's right of way. As the project progresses, the LA will need to work closely with CDOT Region staff to ensure CDOT's continued concurrence.

This project must comply with all CDOT and/or FHWA requirements, including those associated with clearance for right of way, utilities and environmental. All costs associated with clearances, including right of way acquisition, utilities relocation and environmental mitigation measures, such as wetland creation, must be included in the project costs. CDOT staff will assist in determining which clearances are required for your project. The *CDOT Local Agency Manual* includes project requirements to assist with contracting, design and construction, *accessed* at: **http://www.coloradodot.info/business/designsupport/bulletins_manuals.**

Should you have any questions regarding this concurrence, or if your agency would like to schedule time to meet with a member of the CDOT Specialty Unit, please contact Karen Schneiders at (970) 350-2172.

Sincerely,

Johnny Olson, P.E.
Region 4 Transportation Director

JWO:KAS:mbc
cc: Todd Cottrell, DRCOG
Long Nguyen
Katrina Kloberdanz
Kateyn Triggs
Karen Schneiders

Attachment 3

# Forecasted Highway 42 Travel Times

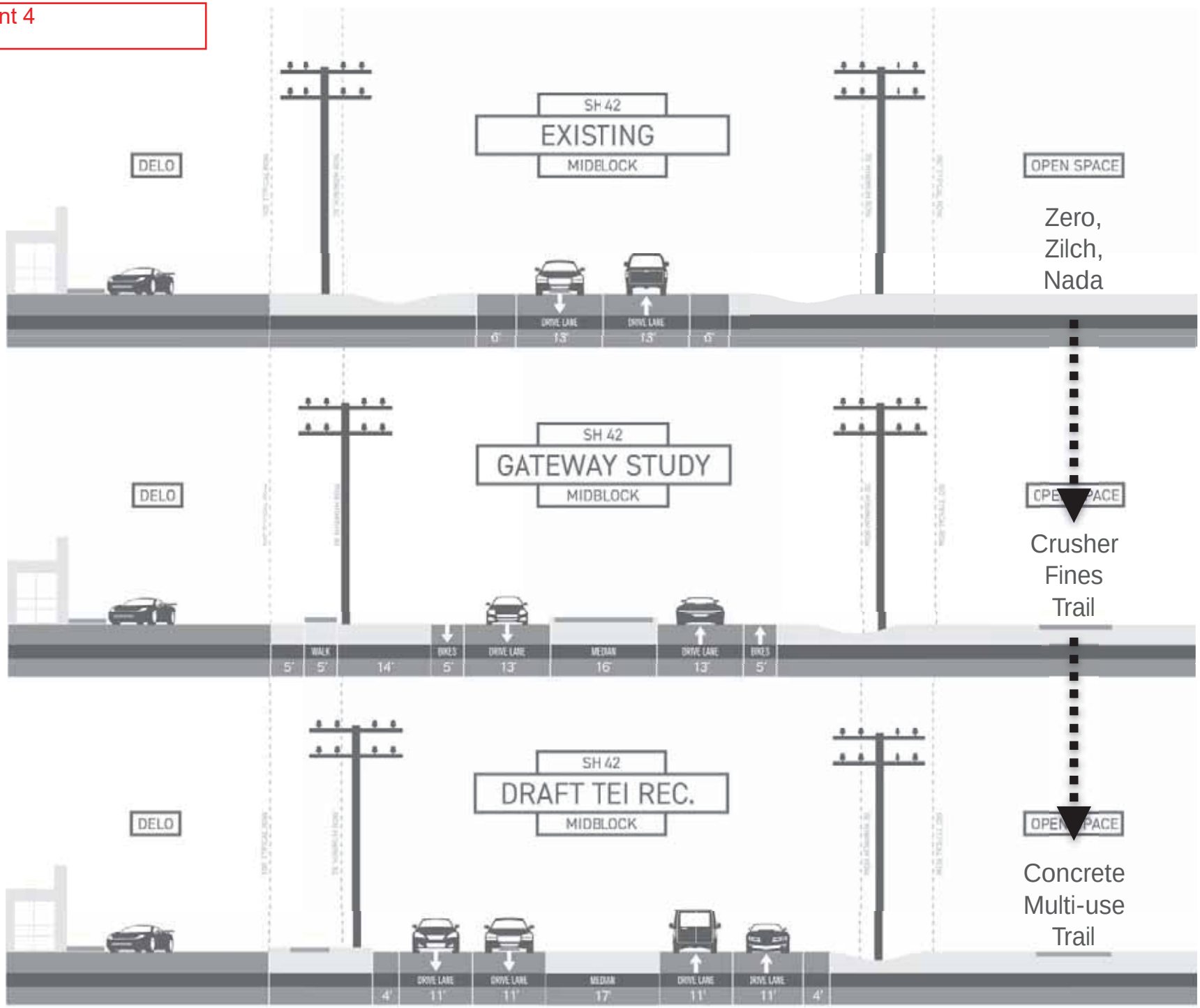
Lock to Paschal Travel Times

| | 2013 Gateway Existing | 2018 TMP/Apex Existing | 2035 Gateway 3 Lane | 2035 Gateway 5 Lane | 2040 Apex 3 Lane |
|---|---|---|---|---|---|
| AM Peak North ↑ | 2.9 min | 3.0 min | **1.50x** 4.4 min | **1.50x** 4.2 min | **2.00x** 5.8 min |
| AM Peak South ↓ | 3.3 min | 2.0 min | **1.50x** 4.6 min | **1.25x** 4.02 min | **1.50x** 4.8 min |
| PM Peak North ↑ | 3.3 min | 3.2 min | **1.75x** 5.7 min | **1.50x** 4.76 min | **4.10x** 13.5 min |
| PM Peak South ↓ | 3.2 min | 5.1 min | **1.50x** 4.9 min | **1.25x** 3.97 min | **1.75x** 5.5 min |
| Average Daily Traffic (Cars per Day) | **19,200** 2013 | **22,600** Today | **21,800** DRCOG | **21,800** DRCOG | **1.50x** **28,000** DRCOG |

Attachment 4

# Evolution of Corridor Planning

Within Existing ROW

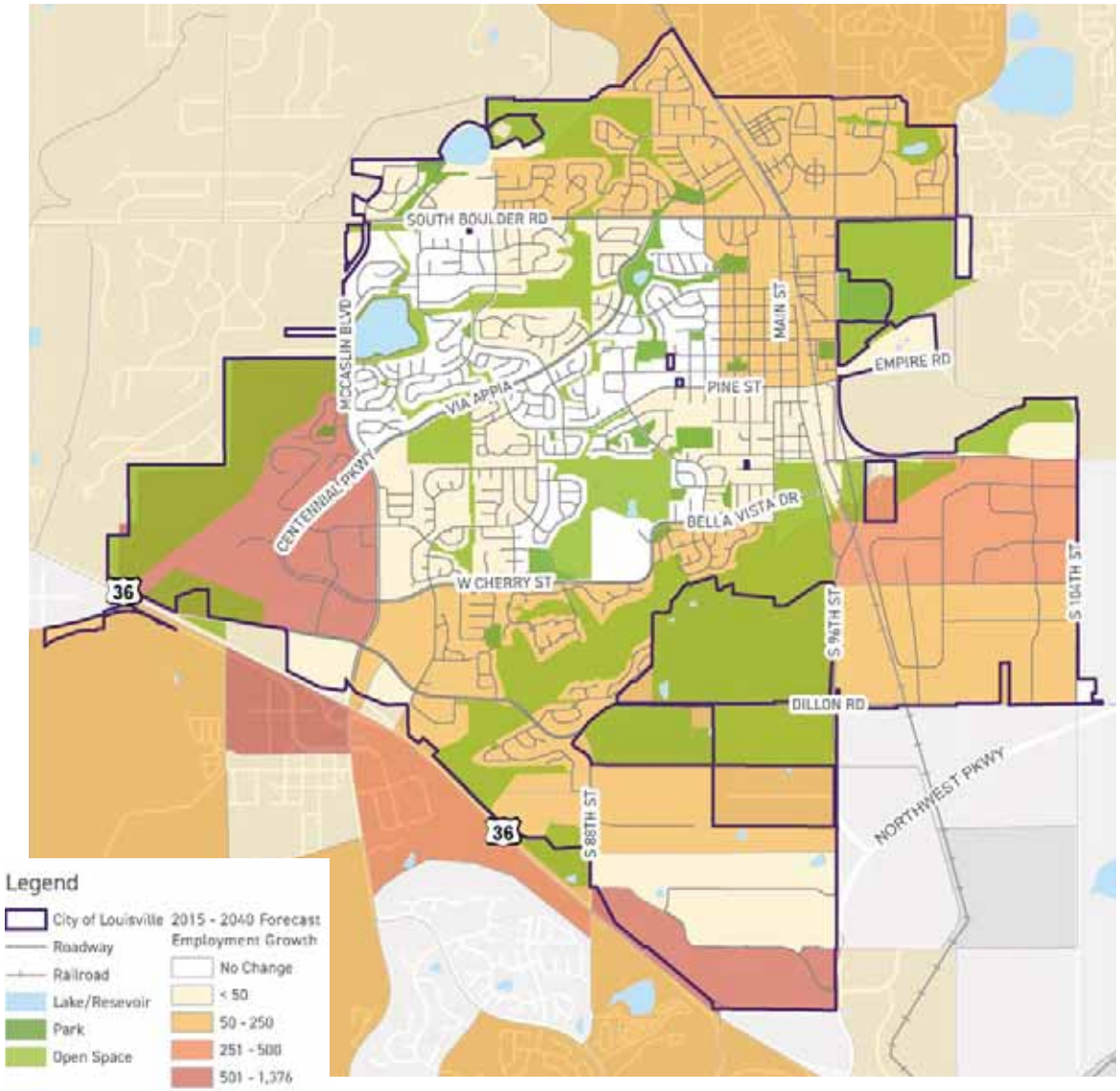


Attachment 5

# Employment Projection

- Employment growth projected within and around Louisville
- Growth is primarily in commercial/industrial areas on the periphery

| | Employment |
|---|---|
| 2015 | 15,036 |
| 2040 Forecast | 19,136 |



Attachment 6

PUBLIC WORKS

City of Lafayette

February 21, 2019

Dear DRCOG and Boulder County Subregional TIP Forum,

The City of Lafayette is writing to share our support for the City of Louisville Subregional TIP application for the SH 42 Conceptual Design Plan. This proposal supports a regional, collaborative approach to transportation planning, and a multi-jurisdictional effort to address the transportation and multimodal needs in this corridor. The proposed plan, which has been supported by CDOT, will provide the Cities of Louisville and Lafayette with a comprehensive, cohesive approach to meeting the current and future transportation needs on SH 42.

The plan would accomplish numerous City goals for SH 42, including capacity planning, multimodal connections, intersection improvements and safety improvements. The City of Lafayette has not yet completed intersection improvement plans SH 42 and SH 7 consistent with the SH 7 BRT PEL. In addition, the City wishes to identify and plan for multi-modal connections along SH 42 that will link Lafayette and Louisville. With significant recent and planned future development along this corridor, both communities have an increased need for multimodal facilities that allow residents to reach services and amenities. Also Lafayette has performed very little planning in this area since the large residential development that occurred in the early 90's.

In addition, the plan will look at the current lane configuration and determine the best use of the existing right of way, as well as how access needs might be met in the future. The City will contribute local match for this project in the amount of $75,000 in 2020.

The City urges DRCOG and the Boulder County Subregional TIP forum to support this project for TIP funding.

Sincerely,

Douglas M. Short, P.E.
Public Works Director

ACCREDITED AGENCY APWA

# CITY COUNCIL COMMUNICATION
## AGENDA ITEM 5G

**SUBJECT:** **APPROVAL OF RESOLUTION NO. 23,SERIES 2020 – A RESOLUTION APPROVING A CONTRACT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY OF LOUISVILLE CONCERNING A GRANT FOR THE ROCK CREEK AND COAL CREEK TRAIL CONNECTION**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **KURT KOWAR, PUBLIC WORKS DIRECTOR**
**MEGAN DAVIS, DEPUTY CITY MANAGER**

**SUMMARY:**
In 2019, the City received a funding grant from DRCOG to design and construct a trail connection between the Coal Creek Trail and Rock Creek Trail along 104th St in Louisville. The funding is a part of the DRCOG Transportation Improvement Program (TIP) awarded to the City of Louisville through a competitive funding process. This award is state multi-modal funding and the program is administered by CDOT. The application was submitted jointly on behalf of the City of Louisville, City of Lafayette, and Boulder County. The total estimated project cost for the design and construction of the project is $950,000, and the City received $475,000 from DRCOG for the project and each of the participating communities committed approximately $158,335 in local match for the project. State multi-modal funding requires 50% local match.

This IGA agreement includes a maximum project funding amount of $950,000, which includes 50% in match funding from the local partners. The project will also require an IGA between the participating communities of Louisville, Lafayette and Boulder County for funding and project development. This IGA will come to City Council for approval at a later date.

The purpose of this Agreement is to disburse State funds, by way of reimbursement, to the Local Agency pursuant to CDOT's program policies. The agreement outlines the following scope of work between the City and CDOT:

- This project will design and construct approximately 2.6 miles of a primarily soft surface, separated multi-use trail generally between Empire Road to the north and the trail head parking lot within the Carolyn Holmberg Preserve.
- At a minimum, the trail will be 8-feet wide and may include additional trail features such as lighting, benches, bike racks, or similar.
- The work will conform to all relevant parameters identified by CDOT.
- The design phase of this work is scheduled to begin during fiscal year 2020, and will identify more exact requirements, qualities, and attributes for this work.

- The construction phase of the project is estimated to begin in fiscal year 2022 and shall finish as soon as reasonably possible.
- The City of Louisville is responsible for design, utilities, ROW, environmental, advertisement, and construction management.

**FISCAL IMPACT:**
The grant agreement and match funding will increase the City's budget by $950,000, with $475,000 funding and match funding of $475,000 to be divided equally between the City of Louisville, City of Lafayette and Boulder County. The City's match funding will come from the Transportation Master Plan first steps line in the CIP budget. Staff will include the budget adjustments for this project in the June budget amendment, creating a new expenditure budget line for the gross cost and a new revenue budget line for the grants and contribution revenues.

**PROGRAM/SUB-PROGRAM IMPACT:**
This project supports the Transportation program area goal for a safe, well-maintained, effective and efficient multi-modal transportation system at a reasonable cost. In addition, it supports the New Trails and Trails Maintenance sub-program objective to construct the highest priority new trails and trail connections to enhance the trail system in a manner consistent with City Council adopted plans.

**RECOMMENDATION:**
Staff recommends approval of Resolution No. 23, Series 2020.

**ATTACHMENT(S):**
1. Resolution No. 23, Series 2020
2. IGA Contract with CDOT for the design and construction of the 104th St. Trail
3. DRCOG TIP grant application

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☒ | **Financial Stewardship & Asset Management** | ☐ | **Reliable Core Services** |
| ☐ | **Vibrant Economic Climate** | ☒ | **Quality Programs & Amenities** |
| ☐ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

**RESOLUTION NO. 23**
**SERIES 2020**

**A RESOLUTION APPROVING A CONTRACT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY OF LOUISVILLE CONCERNING A GRANT FOR THE ROCK CREEK AND COAL CREEK TRAIL CONNECTION**

**WHEREAS**, the City of Louisville has applied for and been awarded a grant through the Colorado Department of Transportation ("CDOT") to complete a segment of the 104th Street Trail that ties together the Coal Creek Trail with Rock Creek Trail and the Carolyn Holmberg Preserve at Rock Creek Farm (the "Project"); and

**WHEREAS,** the Project will include the design and construction of approximately 2.6 miles of a primarily soft surface, separated multi-use trail generally between Empire Road to the north and the trail head parking lot within the Carolyn Holmberg Preserve; the trail will be 8-feet wide and may include additional trail features such as lighting, benches, and bike racks; and

**WHEREAS,** the City desires to accept such grant and authorize execution of a grant contract for such funds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:**

1. The City Council hereby approves that certain Contract between the Colorado Department of Transportation and the City of Louisville for the grant awarded to the City for the Rock Creek and Coal Creek Trail Connection under Project No. MTF M825-015 ("Contract"), in substantially the same form as the copy of such Contract accompanying this Resolution.

2. The Mayor is hereby authorized to execute the Contract on behalf of the City Council of the City of Louisville, except that the Mayor and City Manager are hereby further authorized to negotiate and approve such revisions to the Contract as the Mayor or City Manager determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Contract are not altered.

3. The Mayor, City Manager and City Staff are hereby authorized and directed to do all things necessary on behalf of the City to perform the obligations of the City under the Contract, including without limitation that the Mayor or City Manager are authorized to execute and deliver any certifications, reports, forms, option letters, contract amendments and other documents appropriate or required in connection with the Contract and completion of the City project to be funded in part with funds received under the Contract.

4. The City's obligation to make payments under the Contract is from year to year only, and payments of the City contribution for fiscal year 2021 are subject to annual budgeting and appropriation in the sole and absolute discretion of the City Council. Nothing in the Contract shall be deemed or construed as creating a multiple fiscal year obligation on the part of

the City within the meaning of Colorado Constitution, Article X, Section 20, and the City's obligations under the Contract are expressly conditioned upon annual appropriation by the City Council.

**PASSED AND ADOPTED** this 17th day of March, 2020.

_____
Ashley Stolzmann, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

**State $LAWRK** **REGION: 4**
**PROJECT: MTF M825-015, Rock Creek and Coal Creek Trail Connection** **JH**

# CONTRACT

**THIS CONTRACT** made this ___ day of _____ 20___, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the State and CITY OF LOUISVILLE hereinafter referred to as the "Contractor" or the "Local Agency."

## RECITALS

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs in Fund Number 400, Function: 3301, GL Acct: 4511000010, WBS Element: 23387.20.10, (Contract Encumbrance Amount: $0.00.)
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Pursuant to 43-2-104.5 C.R.S. as amended, the State may contract with Local Agencies to provide maintenance and construction of highways that are part of the state (or local agency) highway system.
4. Local Agency anticipates a project for Rock Creek and Coal Creek Trail Connection and by the date of execution of this contract, the Local Agency and/or the State has completed and submitted a preliminary version of CDOT form #463 describing the general nature of the Work. The Local Agency understands that before the Work begins, the Local Agency must receive an official written "Notice to Proceed" prior to commencing any part of the Work. The Local Agency further understands, before the Work begins, the form #463 may be revised as a result of design changes made by CDOT, in coordination with the Local Agency, in its internal review process. The Local Agency desires to perform the Work described in form #463, as it may be revised.
5. The Local Agency has requested that State funds be made available for project MTF M825-015, Rock Creek and Coal Creek Trail Connection referred to as the "Project" or the "Work." Such Work will be performed in Louisville, Colorado, specifically described in **Exhibit A**.
6. The State has funds available and desires to provide 50% of the funding for the work.
7. The Local Agency desires to comply with all state and other applicable requirements, including the State's general administration of the project through this contract, in order to obtain state funds for the project.
8. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.
9. This contract is executed under the authority of §§ 29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-144, C.R.S. and **Exhibit B**.
10. The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily complete some or all of the Work.
11. The Local Agency can more advantageously perform the Work.

**THE PARTIES NOW AGREE THAT**:

**Section 1. Scope of Work**
The Project or the Work under this contract shall consist of Rock Creek and Coal Creek Trail Connection, in Louisville, Colorado, as more specifically described in **Exhibit A**.

**Section 2. Order of Precedence**
In the event of conflicts or inconsistencies between this contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in **Section 27** of this contract
2. This contract
3. **Exhibit A** (Scope of Work)
4. **Exhibit B** (Local Agency Resolution)

5. **Exhibit C** (Funding Provisions)
6. **Exhibit D** (Option Letter)

**Section 3. Term**

This contract shall be effective upon approval of the State Controller or designee, and shall terminate on March 13,2030, unless sooner terminated or unless performance is extended in accordance with this Contract.

**Section 4. Project Funding Provisions**

A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.

B. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from state sources, as applicable. Should these sources fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.

C. Funding will be detailed in **Exhibit C** of the funding provisions.

**Section 5. Project Payment Provisions**

A. The State will reimburse the Local Agency for incurred costs relative to the project following the State's review and approval of such charges, subject to the terms and conditions of this Contract. Provided however, that charges incurred by the Local Agency prior to the date this contract is executed by the State Controller will not be charged by the Local Agency to the project, and will not be reimbursed by the State.

B. The State will reimburse the Local Agency's reasonable, allocable, allowable costs of Performance of the Work, not exceeding the maximum total amount described in **Exhibit C**. The applicable principles described in 49 C.F.R. 18 Subpart C and 49 C.F.R. 18.22 shall govern the allowability and allocability of costs under this contract. The Local Agency shall comply with all such principles. To be eligible for reimbursement, costs by the Local Agency shall be:
   1. In accordance with the provisions of **Section 5** and with the terms and conditions of this contract;
   2. Necessary for the accomplishment of the Work;
   3. Reasonable in the amount for the goods and services provided;
   4. Actual net cost to the Local Agency (i.e. the price paid minus any refunds, rebates, or other items of value received by the Local Agency that have the effect of reducing the cost actually incurred);
   5. Incurred for Work performed after the effective date of this contract;
   6. Satisfactorily documented.

C. The Local Agency shall establish and maintain a proper accounting system in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme) to assure that project funds are expended and costs accounted for in a manner consistent with this contract and project objectives.
   1. All allowable costs charged to the project, including any approved services contributed by the Local Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in detail the nature of the charges.
   2. Any check or order drawn up by the Local Agency, including any item which is or will be chargeable against the project account shall be drawn up only in accordance with a properly signed voucher then on file in the office of the Local Agency, which will detail the purpose for which said check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.

D. If the Local Agency is to be billed for CDOT incurred costs, the billing procedure shall be as follows:
   1. Upon receipt of each bill from the State, the Local Agency will remit to the State the amount billed no later than 60 days after receipt of each bill. Should the Local Agency fail to pay moneys due the State within 60 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that, at the request of the State, the State Treasurer may withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from the State Highway Supplementary Fund (400).

2. If the Local Agency fails to make timely payment to the State as required by this section (within 60 days after the date of each bill), the Local Agency shall pay interest to the State at a rate of one percent per month on the amount of the payment which was not made in a timely manner, until the billing is paid in full. The interest shall accrue for the period from the required payment date to the date on which payment is made.

E. The Local Agency will prepare and submit to the State, no more than monthly, charges for costs incurred relative to the project. The Local Agency's invoices shall include a description of the amounts of services performed, the dates of performance and the amounts and description of reimbursable expenses. The invoices will be prepared in accordance with the State's standard policies, procedures and standardized billing format to be supplied by the State.

F. To be eligible for payment, billings must be received within 60 days after the period for which payment is being requested and final billings on this contract must be received by the State within 60 days after the end of the contract term.
   1. Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services. The liability of the State, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.
   2. In the event this contract is terminated, final payment to the Local Agency may be withheld at the discretion of the State until completion of final audit.
   3. Incorrect payments to the Local Agency due to omission, error, fraud or defalcation shall be recovered from the Local Agency by deduction from subsequent payment under this contract or other contracts between the State and Local Agency, or by the State as a debt due to the State.
   4. Any costs incurred by the Local Agency that are not allowable under 49 C.F.R. 18 shall be reimbursed by the Local Agency, or offset against current obligations due by the State to the Local Agency, at the State's election.

**Section 6. Option Letter Modification**

An option letter may be used to authorize the Local Agency to begin a phase without increasing total budgeted funds, increase or decrease the encumberance amount as shown on **Exhibit C**, and/or tranfer funds from one phase to another. Option letter modification is limited to the specific scenarios listed below. The option letter shall not be deemed valid until signed by the State Controller or an authorized delegate.

A. Option to begin a phase and/or increase or decrease the encumbrance amount
   The State may authorize the Local Agency to begin a phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous (this does not apply to Acquisition/Relocation or Railroads) as detailed in **Exhibit A** and at the same terms and conditions stated in the original Agreement, with the total budgeted funds as shown on **Exhibit C** remaining the same. The State may increase or decrease the encumbrance amount for a particular phase by replacing the original funding exhibit (**Exhibit C**) in the original Agreement with an updated **Exhibit C-1** (subsequent exhibits to Exhibit C-1 shall be labeled C-2, C-3, etc). The State may exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**. If the State exercises this option, the Agreement will be considered to include this option provision.

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

C. Option to do both Options A and B
   The State may authorize the Local Agency to begin a phase as detailed in **Exhibit A**, and encumber and transfer funds from one phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The addition of a phase and encumbrance and transfer of funds are subject to the

same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.

**Section 7. State and Local Agency Commitments**

The Scope of Work in **Exhibit A** describes the Work to be performed and assigns responsibility of that Work to either the Local Agency or the State. The "Responsible Party" referred to in this contract means the Responsible Party as identified in the Scope of Work in **Exhibit A**.

A. Design [if applicable]
   1. If the Work includes preliminary design or final design (the "Construction Plans"), or design work sheets, or special provisions and estimates (collectively referred to as the "Plans"), the responsible party shall comply with the following requirements, as applicable:
      a. perform or provide the Plans, to the extent required by the nature of the Work.
      b. prepare final design (Construction Plans) in accord with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by CDOT.
      c. prepare special provisions and estimates in accord with the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by CDOT.
      d. include details of any required detours in the Plans, in order to prevent any interference of the construction work and to protect the traveling public.
      e. stamp the Plans produced by a Colorado Registered Professional Engineer.
      f. provide final assembly of Plans and contract documents.
      g. be responsible for the Plans being accurate and complete.\
      h. make no further changes in the Plans following the award of the construction contract except by agreement in writing between the parties. The Plans shall be considered final when approved and accepted by the parties hereto, and when final they shall be deemed incorporated herein.
   2. If the Local Agency is the responsible party:
      a. The local agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
      b. It shall afford the State ample opportunity to review the Plans and make any changes in the Plans that are directed by the State to comply with State requirements.
      c. It may enter into a contract with a consultant to do all or any portion of the Plans and/or of construction administration. Provided, however, that if federal-aid funds are involved in the cost of such work to be done by a consultant, that consultant contract (and the performance/provision of the Plans under the contract) must comply with all applicable requirements of 23 CFR Part 172 and with any procedures implementing those requirements as provided by the State. If the Local Agency does enter into a contract with a consultant for the Work:
         (1) it shall submit a certification that procurement of any design consultant contract complied with the requirements of 23 CFR 172.5(1) prior to entering into contract. The State shall either approve or deny such procurement. If denied, the Local Agency may not enter into the contract.
         (2) it shall ensure that all changes in the consultant contract have prior approval by the State. Such changes in the contract shall be by written supplement agreement. As soon as the contract with the consultant has been awarded by the Local Agency, one copy of the executed contract shall be submitted to the State. Any amendments to such contract shall also be submitted.
         (3) it shall require that all consultant billings under that contract shall comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
         (4) it (or its consultant) shall use the CDOT procedures described in **Exhibit A** to administer that design consultant subcontract, to comply with 23 CFR 172.5(b) .
         (5) it may expedite any CDOT approval of its procurement process and/or consultant contract by submitting a letter to CDOT from the certifying Local Agency's attorney/authorized representative certifying compliance with 23 CFR 172.5(b).
         (6) it shall ensure that its consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:

(a) "The design work under this contract shall be compatible with the requirements of the contract between the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract for that purpose."
(b) "Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project."
(c) "The consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work."
(d) The State, in its discretion, will review construction plans, special provisions and estimates and will cause the Local Agency to make changes therein that the State determines are necessary to assure compliance with State requirements.

B. Construction [if applicable]
1. If the Work includes construction, the responsible party shall perform the construction in accordance with the approved design plans and/or administer the construction all in accord with the The Scope of Work in **Exhibit A**. Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting the Quality Control requirements as described in the The Scope of Work in **Exhibit A**.
2. The State shall have the authority to suspend the Work, wholly or in part, by giving written notice thereof to the Local Agency, due to the failure of the Local Agency or its contractor to correct project conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
3. If the Local Agency is the responsible party:
   a. it shall appoint a qualified professional engineer, licensed in the State of Colorado, as the Local Agency Project Engineer (LAPE), to perform that administration. The LAPE shall administer the project in accordance with this contract, the requirements of the construction contract and applicable State procedures.
   b. if bids are to be let for the construction of the project, it shall advertise the call for bids upon approval by the State and award the construction contract(s) to the low responsible bidder(s) upon approval by the State.
      (1) The Local Agency has the option to accept or reject the proposal of the apparent low bidder for work on which competitive bids have been received. The Local Agency must declare the acceptance or rejection within 3 working days after said bids are publicly opened.
      (2) By indicating its concurrence in such award, the Local Agency, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work under this project if no additional federal-aid funds will be made available for the project. This paragraph also applies to projects advertised and awarded by the State.
   c. If all or part of the construction work is to be accomplished by Local Agency personnel (i.e. by force account), rather than by a competitive bidding process, the Local Agency will ensure that all such force account work is accomplished in accordance with the pertinent State specifications and requirements with 23 CFR 635, Subpart B, Force Account Construction.
      (1) Such work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency and the Stat in advance of the Work, as provided for in 23 CFR 635.204(c). Such agreed unit prices shall constitute a commitment as to the value of the Work to be performed.
      (2) An alternative to the above is that the Local Agency may agree to participate in the Work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the Work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with 48 CFR Part 31.
      (3) Rental rates for publicly owned equipment will be determined in accordance with the State's Standard Specifications for Road and Bridge Construction § 109.04.
      (4) All force account work shall have prior approval of the State and shall not be initiated until the State has issued a written notice to proceed.

C. State's obligations
   1. The State will perform a final project inspection prior to project acceptance as a Quality Control/Assurance activity. When all Work has been satisfactorily completed, the State will sign a final acceptance form.
   2. Notwithstanding any consents or approvals given by the State for the Plans, the State will not be liable or responsible in any manner for the structural design, details or construction of any major structures that are designed by or are the responsibility of the Local Agency as identified in the The Scope of Work in **Exhibit A**, within the Work of this contract.

**Section 8. ROW Acquisition and Relocation**

If the Project includes right of way, prior to this project being advertised for bids, the Responsible Party will certify in writing to the State that all right of way has been acquired in accordance with the applicable state and federal regulations, or that no additional right of way is required.

Any acquisition/relocation activities must comply with: all applicable federal and state statutes and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646) and the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs as amended (49 CFR Part 24); CDOT's Right of Way Manual; and CDOT's Policy and Procedural Directives.

Allocation of Responsibilities are as follows:

- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) activities, if any, and right of way incidentals (expenses incidental to acquisition/relocation of right of way – 3114 charges);
- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) but no participation in incidental expenses (3114 charges); or
- No federal participation in right of way acquisition (3111 charges) and relocation activities (3109 expenses).

Regardless of the option selected above, the State retains oversight responsibilities. The Local Agency's and the State's responsibilities for each option is specifically set forth in CDOT's Right of Way Manual. The manual is located at http://www.dot.state.co.us/ROW_Manual/.

If right of way is purchased for a state highway, including areas of influence of the state highway, the local agency shall immediately convey title to such right of way to CDOT after the local agency obtains title.

**Section 9. Utilities**

If necessary, the Responsible Party will be responsible for obtaining the proper clearance or approval from any utility company, which may become involved in this Project. Prior to this Project being advertised for bids, the Responsible Party will certify in writing to the State that all such clearances have been obtained.

**Section 10. Railroads**

In the event the Project involves modification of a railroad company's facilities whereby the Work is to be accomplished by railroad company forces, the Responsible Party shall make timely application to the Public Utilities Commission requesting its order providing for the installation of the proposed improvements and not proceed with that part of the Work without compliance. The Responsible Party shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 CFR 646, subpart B, concerning federal-aid projects involving railroad facilities, including:

A. Executing an agreement setting out what work is to be accomplished and the location(s) thereof, and that the costs of the improvement shall be eligible for federal participation.
B. Obtaining the railroad's detailed estimate of the cost of the Work.
C. Establishing future maintenance responsibilities for the proposed installation.
D. Proscribing future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
E. Establishing future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.

**Section 11. Environmental Obligations**

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

**Section 12. Maintenance Obligations**

The Local Agency will maintain and operate the improvements constructed under this contract at its own cost and expense during their useful life, in a manner satisfactory to the State. The Local Agency will make proper provisions

for such maintenance obligations each year. Such maintenance and operations shall be conducted in accordance with all applicable statutes, ordinances and regulations which define the Local Agency's obligations to maintain such improvements. The State will make periodic inspections of the project to verify that such improvements are being adequately maintained.

**Section 13. Record Keeping**

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State to inspect the project and to inspect, review and audit the project records.

**Section 14. Termination Provisions**

This contract may be terminated as follows:

A. Termination for Convenience. The State may terminate this contract at any time the State determines that the purposes of the distribution of moneys under the contract would no longer be served by completion of the project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.

B. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Local Agency of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Local Agency under this contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this contract.

   Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.

   If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

C. Termination Due to Loss of Funding. The parties hereto expressly recognize that the Local Agency is to be paid, reimbursed, or otherwise compensated with federal and/or State funds which are available to the State for the purposes of contracting for the Project provided for herein, and therefore, the Local Agency expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon availability of such funds to the State. In the event that such funds or any part thereof are not available to the State, the State may immediately terminate or amend this contract.

**Section 15. Legal Authority**

The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

**Section 16. Representatives and Notice**

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate

by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

| **If to State** | **If to the Local Agency** |
|---|---|
| CDOT Region: 4 | City of Louisville |
| Katelyn Triggs | Megan Davis |
| Project Manager | Deputy City Manager |
| 10601 10th St | 749 Main Street |
| Greeley, CO 80634 | Louisville, CO 80027 |
| 970-350-2160 | 303-335-4539 |

**Section 17. Successors**
Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**Section 18. Third Party Beneficiaries**
It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

**Section 19. Governmental Immunity**
Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

**Section 20. Severability**
To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

**Section 21. Waiver**
The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

**Section 22. Entire Understanding**
This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

**Section 23. Survival of Contract Terms**
Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

**Section 24. Modification and Amendment**
This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this

contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

**Section 25. Disputes**

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

**Section 26. Statewide Contract Management System**

If the maximum amount payable to Contractor under this Contract is $100,000 or greater, either on the Effective Date or at anytime thereafter, this **§Statewide Contract Management System** applies. Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Transportation and showing of good cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

**Section 27**. **COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**.

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

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

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

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

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

**C. GOVERNMENTAL IMMUNITY.**

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

**D. INDEPENDENT CONTRACTOR**

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

**E. COMPLIANCE WITH LAW.**

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

**F. CHOICE OF LAW, JURISDICTION, AND VENUE.**

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

**G. PROHIBITED TERMS.**

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

**H. SOFTWARE PIRACY PROHIBITION.**

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

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

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

**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.

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**Section 29. SIGNATURE PAGE**

## THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

*** Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.**

| THE LOCAL AGENCY<br>CITY OF LOUISVILLE | STATE OF COLORADO<br>Jared S. Polis<br>Department of Transportation |
|---|---|
| Name:_____<br>(print name)<br>Title: _____<br>(print title)<br>_____<br>*Signature<br>Date:_____ | By_____<br>Stephen Harelson, P.E., Chief Engineer<br>(For) Shoshana M. Lew, Executive Director<br>Date:_____ |
| **2nd Local Agency Signature if needed**<br>Name:_____<br>(print name)<br>Title: _____<br>(print title)<br>_____<br>*Signature<br>Date:_____ | STATE OF COLORADO<br>LEGAL REVIEW<br>Philip J. Weiser, Attorney General<br>By_____<br>Signature – Assistant Attorney General<br>Date:_____ |

**ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

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

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

By: _____
Colorado Department of Transportation

Date:_____

## EXHIBIT A – SCOPE OF WORK

The Colorado Department of Transportation ("CDOT") will oversee The City of Louisville when the City completes the 104th Street Trail project. (Hereinafter referred to as "this work") CDOT and the City of Louisville believe it will be beneficial to perform this work because it will complete the segment of trail along 104th Street that ties together the Coal Creek Trail with Rock Creek Trail and the Carolyn Holmberg Preserve at Rock Creek Farm. This project will design and construct approximately 2.6 miles of a primarily soft surface, separated multi-use trail generally between Empire Road to the north and the trail head parking lot within the Carolyn Holmberg Preserve. At a minimum, the trail will be 8-feet wide and may include additional trail features such as lighting, benches, bike racks, or similar.

This work will conform to the parameters articulated in the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, AASHTO "A Policy on Geometric Design of Highways and Streets", AASHTO "Roadside Design Guide", and the CDOT Project Development Manual, CDOT M&S Standards, CDOT Design Guide, CDOT Construction Manual, Manual on Uniform Traffic Control Devices, Highway Capacity Manual, City of Louisville Design and Construction Standards, along with all applicable State and Federal guidelines.

The design phase of this work is scheduled to begin during fiscal year 2020. The design phase will identify more exact requirements, qualities, and attributes for this work. (Herein after referred to as "the Exact Work"). The Exact Work shall be used to complete the construction phase of the project. The construction phase of the project is estimated to begin in fiscal year 2022 and shall finish as soon as reasonably possible.

The City of Louisville is responsible for design, utilities, ROW, environmental, advertisement, and construction management.

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LOCAL AGENCY
ORDINANCE
or
RESOLUTION

(if applicable)

**EXHIBIT C - FUNDING PROVISIONS** **MTF M825-015 (23387)**

A. **Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be $950,000.00, which is to be funded as follows:

| | |
|---|---|
| **1. BUDGETED FUNDS** | |
| a. State Funds (50.00% of Participating Costs) | $475,000.00 |
| b. Local Agency Matching Funds (50.00% of Participating Costs) | $475,000.00 |
| **TOTAL BUDGETED FUNDS** | $950,000.00 |
| **2. ESTIMATED PAYMENT TO LOCAL AGENCY** | |
| a. State Funds Budgeted | $475,000.00 |
| **TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY** | $475,000.00 |
| **3. FOR CDOT ENCUMBRANCE PURPOSES** | |
| a. Total Encumbrance Amount | $950,000.00 |
| b. Less ROW Acquisition 3111 and/or ROW Relocation 3109 | $0.00 |
| Net to be encumbered as follows: | $950,000.00 |

***Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.***

| | Performance Period Start*/End Date | | | |
|---|---|---|---|---|
| WBS Element 23387.10.30 | N/A / N/A | Design | 3020 | $0.00 |
| WBS Element 23387.20.10 | N/A / N/A | 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 this Work is 50.00% State funds to 50.00% Local Agency funds, it being understood that such ratio applies only to the $950,000.00 of total budgeted funds, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total cost of performance of the Work is less than $950,000.00, then the amounts of Local Agency and State funds will be decreased in accordance with the funding ratio described herein.

## C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be $475,000.00 (for CDOT accounting purposes, the State funds of $475,000.00 and the Local Agency matching funds of $475,000.00 will be encumbered for a total encumbrance of $950,000.00), 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 State 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 6. of this contract.

**EXHIBIT D – OPTION LETTER**

# SAMPLE IGA OPTION LETTER

**(This option has been created by the Office of the State Controller for CDOT use only)**

*NOTE: This option is limited to the specific contract scenarios listed below*
*AND may be used in place of exercising a formal amendment.*

| Date: | State Fiscal Year: | Option Letter No. | Option Letter CMS Routing #<br><br>Option Letter SAP # |
|---|---|---|---|
| Original Contract CMS # | | Original Contract SAP # | |

**Vendor name:** _____

**SUBJECT:**

Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (*does not apply to Acquisition/Relocation or Railroads*) and to update encumbrance amounts(*a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.*).

Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

**REQUIRED PROVISIONS:**

**Option A** (*Insert the following language for use with the Option A*):
In accordance with the terms of the original Agreement (*insert CMS routing # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous)* is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for **Exhibit C** shall be labled as follows: **C-2**, **C-3**, **C-4**, etc*.).

**Option B** (*Insert the following language for use with Option B*):
In accordance with the terms of the original Agreement (*insert CMS # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2**, **C-3**, **C-4**, etc*.

**Option C** (*Insert the following language for use with Option C):*
In accordance with the terms of the original Agreement (*insert CMS routing # of original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here),* the State hereby exercises the option to 1) release the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2**, **C-3**, **C-4**, etc.; and no more than 24.99% of any phase may be moved using this option letter. A transfer greater than 24.99% must be made using a formal amendment*).

*(The following language must be included on ALL options):*
The total encumbrance as a result of this option and all previous options and/or amendments is now (*insert total encumbrance amount*), as referenced in **Exhibit** (***C-1**, **C-2**, etc., as appropriate*). The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: (*indicate total budgeted funds*) as referenced in **Exhibit** (***C-1**, **C-2**, etc., as appropriate*) of the original Agreement.

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

**APPROVALS:**

**State of Colorado:**
Jared S. Polis, Governor

By: _____ Date: _____
Executive Director, Colorado Department of Transportation

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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

**State Controller**
**Robert Jaros, CPA, MBA, JD**

By: _____

Date: _____

Form Updated: December 19, 2012

# 2020–2023 Transportation Improvement Program (TIP)
# Boulder County Subregional Share
# Project Application Form

## APPLICATION OVERVIEW

The **Subregional Share Call for Projects** will **open on January 2, 2019**, with applications **due no later than 3 p.m. on February 27, 2018** to your subregional forum.

- To be eligible to submit, at least one person from your agency must have attended one of the mandatory TIP training workshops (held August 8 and August 16) or a supplemental training held on September 14.
- Projects requiring CDOT and/or RTD concurrence must provide their official response with the application submittal. The CDOT/RTD concurrence request is due to CDOT/RTD no later than January 7, with CDOT/RTD providing a response no later than February 8. The form can be found here.
- Any applications submitted by regional or similar agencies (TMA's), or municipalities crossing multiple subregions, must be submitted through the subregional forum based on where the majority of the project is located.
- Data to help the sponsor fill out the application, *especially Part 3*, can be found here.
- If any sponsor wishes to request additional data or calculations from DRCOG staff, please submit your request to tcottrell@drcog.org no later than February 6, 2019.
- The application must be affirmed by either the applicant's City or County Manager or Chief Elected Official (Mayor or County Commission Chair) for local governments, or agency director or equivalent for other applicants.
- Further details on project eligibility, evaluation criteria, and the selection process are defined in the ***Policy on Transportation Improvement Program (TIP) Preparation: Procedures for Preparing the 2020-2023 TIP***, which can be found online here.

## APPLICATION FORM OUTLINE

The 2020-2023 TIP Subregional Share application contains three parts: *base project information* (Part 1), *evaluation questions* (Part 2), and *data calculation estimates* (Part 3). DRCOG staff will review each forum's submitted applications for eligibility. Each forum will be responsible for making a comprehensive evaluation of all eligible applications and rank ordering their submittals to determine their recommended projects and waiting lists. Forum recommendations will be forwarded to DRCOG staff for a final recommendation to the TAC, RTC, and DRCOG Board.

### Part 1 | Base Information

Applicants will enter **foundational** information for their *project/program/study* (hereafter referred to as *project*) in Part 1, including a Problem Statement, project description, and concurrence documentation from CDOT and/or RTD, if applicable. Part 1 will not be scored.

### Part 2 | Evaluation Criteria, Questions, and Scoring

This part includes four sections (A-D) for the **applicant to provide qualitative and quantitative responses** to use for scoring projects. The outcomes from Part 3 should guide the applicant's responses in Part 2**.**

**Scoring Methodology**: Each section will be scored using a scale of *High-Medium-Low,* relative to other applications received. The four sections in Part 2 are weighted and scored as follows:

**Section A. Subregional Significance of Proposed Projects ..... 40%**

| | |
|---|---|
| **High** | The project will significantly address a clearly demonstrated major subregional problem and benefit people and businesses from multiple subregions. |
| **Medium** | The project will either moderately address a major problem or significantly address a moderate-level subregional problem. |
| **Low** | The project will address a minor subregional problem. |

**Section B. Metro Vision TIP Focus Areas ..... 30%**

| | |
|---|---|
| **High** | The project will **significantly improve** the safety and/or security, **significantly increase** the reliability of the transportation network, and benefit a **large number and variety** of users (including vulnerable populations*). |
| **Medium** | The project will **moderately improve** the safety and/or security**, moderately increase** the reliability of the transportation network, and benefit a **moderate number and variety** of users (including vulnerable populations*). |
| **Low** | The project will **minimally improve** the safety and/or security, **minimally increase** the reliability of the transportation network, and benefit a **limited number and variety** of users (including vulnerable populations*). |

**Vulnerable populations include: Individuals with disabilities, persons over age 65, and low-income, minority, or linguistically-challenged persons.*

**Section C. Consistency & Contributions to Transportation-focused Metro Vision Objectives ..... 20%**

Metro Vision guides DRCOG's work and establishes shared expectations with our region's many and various planning partners. The plan outlines broad outcomes, objectives, and initiatives established by the DRCOG Board to make life better for the region's residents. The degree to which the outcomes, objectives, and initiatives identified in Metro Vision apply in individual communities will vary. Metro Vision has historically informed other DRCOG planning processes, such as the TIP.

| | |
|---|---|
| **High** | The project will **significantly** address Metro Vision transportation-related objectives and is determined to be in the **top third** of applications based on the magnitude of benefits. |
| **Medium** | The project will **moderately** address Metro Vision transportation-related objectives and is determined to be in the **middle third** of applications based on the magnitude of benefits. |
| **Low** | The project will **slightly or not at all** address Metro Vision transportation-related objectives and is determined to be in the **bottom third** of applications based on the magnitude of benefits. |

**Section D. Leveraging of non-Subregional Share funds** ("overmatch") **..... 10%**

Scores are assigned based on the percent of outside funding sources (non-Subregional Share).

| | | |
|---|---|---|
| % of Outside Funding (non-Subregional Share) | **High** | 60% and above |
| | **Medium** | 30-59% |
| | **Low** | 29% and below |

## Part 3 | Project Data – Calculations and Estimates

Based on the applicant's project elements, sponsors will complete the appropriate sections to estimate usage or benefit values. Part 3 is not scored, and the quantitative responses should be used to back-up the applicant's qualitative narrative.

# Part 1 Base Information

| | |
|---|---|
| **1.** Project Title | **Coal Creek/Rock Creek Regional Trails Connection at 104th Street** |
| **2.** Project *Start/End* points or Geographic Area<br>*Provide a map with submittal, as appropriate* | This project begins at the Coal Creek regional trail at Empire Rd. and follows 104th Street South to the Rock Creek regional Trail at Rock Creek Farm, Sterns Lake Trailhead. |
| **3.** Project Sponsor *(entity that will construct/ complete and be financially responsible for the project)* | City of Louisville, CO. |
| **4.** Project Contact Person, Title, Phone Number, and Email | Megan Davis, Deputy City Manager, 303-335-4539, mdavis@louisvilleco.gov |
| **5.** Does this project touch CDOT Right-of-Way, involve a CDOT roadway, access RTD property, or request RTD involvement to operate service? | ☐ Yes X☐ No<br>*If yes, provide applicable concurrence documentation with submittal* |

| | | |
|---|---|---|
| **6.** What planning document(s) identifies this project? | ☐ DRCOG 2040 Fiscally Constrained Regional Transportation Plan (2040 FCRTP) | |
| | ☐ X Local plan: | City of Louisville Parks, Recreation, Open Space and Trails Plan<br>http://www.louisvilleco.gov/home/showdocument?id=1538<br>Jointly Owned Boulder County-Lafayette-Louisville Open Space Management Plan<br>https://assets.bouldercounty.org/wp-content/uploads/2017/03/jointly-owned-lafayette-louisville-open-space-management-plan.pdf<br>City of Lafayette Parks, Recreation and Open Space Plan<br>https://www.cityoflafayette.com/1330/2019-PROST-Master-Plan#2012 |
| | ☐ Other(s): | |
| | *Provide link to document/s and referenced page number if possible, or provide documentation with submittal* | |

**7.** Identify the project's **key elements**.

- ☐ Rapid Transit Capacity (2040 FCRTP)
- ☐ Transit Other: Transit Priority Lanes
- X☐ Bicycle Facility
- X☐ Pedestrian Facility
- ☐ Safety Improvements
- ☐ Roadway Capacity or Managed Lanes (2040 FCRTP)
- ☐ Roadway Operational

Grade Separation
- ☐ Roadway
- ☐ Railway
- ☐ Bicycle
- ☐ Pedestrian

- ☐ Roadway Pavement Reconstruction/Rehab
- ☐ Bridge Replace/Reconstruct/Rehab
- ☐ Study
- ☐ Design
- ☐ Other:

**8.** **Problem Statement** What specific Metro Vision-related regional problem/issue will the transportation project address?

The proposed project will provide a multimodal use option through a corridor where a continuous bike/pedestrian facility does not currently exist. The project would connect two heavily used regional trails, and will help ensure that the regional transportation system is well-connected and serves all modes of travel. The trail connection offers a continuous trail connection between two important regional trails – the 14-mile Coal Creek Regional Trail (est. 1990) and 12-mile Rock Creek Trail (map in Attachment 1), traveling along 104th Street, which is a busy roadway that bisects SH 42/Empire Road, Dillon Road and the Northwest Parkway. There is currently a shoulder but no bike lane on 104th Street between Dillon Road and Empire Road. The two regional trails which would be connected are also utilized as connections by the broader region, linking into the City and County of Broomfield trail system to the south, Superior to the south west and the City of Lafayette to the north and east.

This trail would provide a new multimodal travel option along this heavily travelled corridor with approximately 19,000 ADT at Dillon Road and 104th St. The two regional trails which will be connected by this trail also see heavy use. According to trail counters the Coal Creek Trail at Empire Road (which is the northern connection point) there are 374 bikes/day on weekends, 231 bikes/weekday and approximately 100,000 annual bicycle users alone (not counting walkers/hikers). The Rock Creek Trail sees between 66,000-123,000 total users of all kinds per year. This high usage demonstrates that this project will provide another important connection for residents in the region to these regional trails.

In addition, the project will help enhance the region's quality of life, by increasing access to trails and open spaces in multiple communities. The collaborative implementation of this trail reflects our region's values, in that it protects and connects people to its diverse natural resource areas, open space, parks and trails. The trail connection will link people to open space areas, which are jointly owned by the participating jurisdictions. The two Cities of Louisville and Lafayette and Boulder County have worked for many years to acquire open spaces in these areas, for the purposes of preservation, agricultural heritage and recreation. We have worked collaboratively on completing regional connections to and through these open spaces, and therefore have significant experience and strong relationships to support this project. The trail connection will link people to open space areas, which are jointly owned by the participating jurisdictions.

The proposed alignment respects local plans, and leverages existing IGAs to further multi-jurisdictional collaborative efforts of preservation, recreation and multimodal transportation alternatives. This trail has been identified as a top priority for collaboration with Boulder County Parks and Open Space by the Cities of Louisville and Lafayette for several years.

The trail will improve multimodal connections to Louisville's largest job center, the Colorado Tech Center, and provide a bicycle/pedestrian trail link that connects with the US 36 bikeway and Flatiron Flyer BRT. The trail will provide a connection to the south for Lafayette residents for transportation and recreation purposes. It will give people access to open space and recreational opportunities without getting in their car.

**9.** Define the **scope** and **specific elements** of the project.

The project is to construct a primarily soft-surface/crusher fines (concrete in some small sections), 8 foot wide, separated multi-use trail that links the regional Coal Creek Trail, which extends from Louisville and Superior to Lafayette, to the Rock Creek Trail which connects Boulder and Broomfield County trail systems (Attachment 2). The trail will be constructed on publicly owned Open Space lands and, if needed at select locations, within public road right of way. It will consist of 2.6 miles of new trail that will travel through several jointly-owned Open Space properties. These properties are managed for multiple purposes with a high emphasis on Agriculture. However, the plans for these properties identify a potential trail connection along the 104th Street corridor. The trail will be set back as far as possible from the road to provide a separated, open space experience, however in some areas agriculture operations and other uses will necessitate the use of right of way closer to the road.

The northern portion of the trail connection will be at Empire Rd. and the Coal Creek Trail, where it will then travel east and south along the Louisville cemetery, cross SH 42, and continue south along 104th St. Currently the anticipated alignment for the trail will be on the east side of Empire Rd/104th St, however, during design this may change slightly in areas, including the area near the Louisville cemetery. A new signal at SH 42 and 104th Street (which has been designed and funded, and will be installed this year/2019) has been configured to support the trail

alignment and necessary pedestrian crossings. The trail will continue south along the east side of 104th Street on the Mayhoffer 15 Open Space property, where it will parallel the agricultural activities on the Boulder County Land Venture property to the intersection of Dillon Road and 104th. At this point, there may be a need for some concrete sections and curb and gutter infrastructure due to existing easement and private property lines. Another signal is planned for installation at this intersection, with accommodations designed in for the trail crossing.

From Dillon Road, the trail continues to travel south along the east side of 104th, on the Boulder County Rock Creek Farm property, crosses the bridge over the NW Parkway (where a concrete sidewalk currently exists) and enters the Carolyn Holmberg Preserve. The trail will follow the Open Space on the east side until it reaches the parking lot at Sterns Lake. Just north of the parking lot there is a ditch crossing and wetland area which will require a small bridge and boardwalk area.

A map of the proposed alignment can be found in Attachment 3. A detailed conceptual budget estimate can be found in Attachment 4.

**10.** What is the status of the proposed project?

The project is in the planning stage and a conceptual alignment has been identified. It is identified in the **Jointly Owned Boulder County-Lafayette-Louisville Open Space Management Plan** adopted by Boulder County and the partner cities in 2004. This management plan provides land management guidance for an assemblage of ten protected properties that span 950 acres in southeastern Boulder County. The three partner agencies have worked collaboratively to identify a conceptual alignment on these publicly owned lands, as detailed above. The infrastructure at the road crossings (Dillon Road and Empire Road) are currently being constructed in partnership with the Louisville Colorado Technology Center (CTC) to include signals with pedestrian crossings designed to accommodate trail implementation. The design for the project will be completed by the project partner communities by the end of 2020, and the communities would like to begin construction in 2021-2022.

The City of Louisville Open Space Master Plan contemplates the development of a trail to connect the Coal Creek Regional Trail and the Rock Creek Trail through the City of Louisville, Lafayette and Boulder County properties that lie between. The City of Lafayette Parks, Recreation and Open Space Plan (2014) also includes the trail connection as a priority. An Intergovernmental Agreement between the three agencies enabled the development of the Coal Creek/Rock Creek Trail system and the City's participation in regional planning efforts for future alternative transportation tax funding. As a result, there have been significant connectivity improvements and numerous future possibilities for improving the existing trail system, with projects such as the 104th Street trail connection.

The project will require site survey and environmental studies to be complete, and the Boulder County Parks and Open Space Rock Creek Farm management plan will be amended to reflect the alignment of the trail.

The City of Lafayette has budgeted their match funds for the project in their 2021-22 CIP, The City of Louisville has match funding included in its 6 year CIP plan that would support the improvements, and Boulder County Parks and Open Space has included match funding for the project in their 5-year CIP plan as well. Grant funds will allow completion of the project.

**11.** Would a smaller federal funding amount than requested be acceptable, while maintaining the original intent of the project?

☐ Yes ☐X No

*If yes, define smaller meaningful limits, size, service level, phases, or scopes, along with the cost for each?*

If a smaller amount of funding were provided, the trail could not be completed. The full benefit of the trail is to connect the two regional trails, and this would be lost if only certain segments of the project were completed.

The City of Louisville requests consideration for State Multi-modal options funding for this project.

## A. Project Financial Information and Funding Request

| | | |
|---|---|---|
| **1. Total Project Cost** | | **$950,000.00** |
| **2. Total amount of DRCOG Regional Share Funding Request** *(no greater than **$20 million** and not to exceed **50% of the total project cost**)* | **$475,000.00** | **50%** of total project cost |
| **3. Outside Funding Partners** ***(other than DRCOG Regional Share funds)*** List each funding partner and contribution amount. | **$$ Contribution Amount** | **% of Contribution to Overall Total Project Cost** |
| Boulder County Subregion | $475,000 | 50% |
| City of Louisville | $158,333.33 | 16.67% |
| City of Lafayette | $158,333.33 | 16.67% |
| Boulder County | $158,333.33 | 16.67% |
| **Total amount of funding provided by other funding partners** *(private, local, state, Subregion, or federal)* | **$950,000** | 100% |

**Funding Breakdown** (year by year)*

**The proposed funding plan is not guaranteed if the project is selected for funding. While DRCOG will do everything it can to accommodate the applicants' request, final funding will be assigned at DRCOG's discretion within fiscal constraint. Funding amounts must be provided in year of expenditure dollars using an inflation factor of 3% per year from 2018.*

| | FY 2020 | FY 2021 | FY 2022 | FY 2023 | Total |
|---|---|---|---|---|---|
| **Federal Funds (Subregional)** | $0 | $0 | $475,000 | $0 | **$475,000** |
| **Local Funds** | $85,000 | $0 | $390,000 | $0 | **$475,000** |
| **Total Funding** | $85,000 | $0 | $865,000 | $0 | **$950,000** |
| **4. Phase to be Initiated** *Choose from Design, ENV, ROW, CON, Study, Service, Equip. Purchase, Other* | Design | | CON | | |

**5. By checking this box**, the applicant's Chief Elected Official (Mayor or County Commission Chair) or City/County Manager for local governments or Agency Director or equivalent for others, has certified it allows this project request to be submitted for DRCOG-allocated funding and will follow all DRCOG policies and state and federal regulations when completing this project, if funded. ☒

# Part 2 Evaluation Criteria, Questions, and Scoring

## A. Regional significance of proposed project

WEIGHT **40%**

*Provide **qualitative and quantitative** (derived from Part 3 of the application) responses to the following questions on the regional significance of the proposed project.*

**1.** Why is this project regionally important?

The project adds multimodal capacity to a roadway adjacent to a major job center with 5,000 employees in the City of Louisville. Nearly half (48%) of workers commuting into Louisville, and to the CTC, are traveling from the US 36 corridor. This trail connection provides a bus/bike option for people to get off the bus at the Flatiron Station and ride their bike to the CTC in a direct manner.

The proposed trail provides an important pedestrian and bicycle connection to two major regional trials that connect Lafayette, Louisville and Broomfield. The Coal Creek and Rock Creek Trails each see approximately 100,000+ users per year (Trail count data in Attachment 5). The trailhead serving the Rock Creek Trail had 110,519 visits in 2017 and Lafayette's 2017 daily Coal Creek Trail counts indicate daily usage as high as 500 users per day, and 11,000 users per month.

The trail addresses the transportation needs for more north/south multimodal connections within the corridor including providing a safe, reliable alternate mode connection from Lafayette to Louisville and on to Broomfield. The trail will provide linkages to the Cities of Lafayette and Louisville to Boulder County's most heavily visited Open Space; Rock Creek Farm, which in 2017 received 157,999 visits. The trail will provide outdoor opportunities to several communities throughout the region, as well as access to active outdoor recreation in the form of walking, hiking and biking.

**2.** Does the proposed project cross and/or benefit multiple **municipalities**? If yes, which ones and how?

Yes, this trail benefits the Cities of Lafayette, Louisville, the Town of Superior, Boulder County and City and County of Broomfield. For all of these communities, the trail provides a direct link that extends the regional trail connection opportunities. For Lafayette, it provides a safe and direct opportunity for residents to connect the Coal Creek Trail to the Rock Creek Trail and Open Space and to access Open Space that the City has jointly purchased. For Louisville it provides an important multimodal transportation connection for individuals working at the CTC, as well as the opportunity for residents to link the Coal Creek Trail to the Rock Creek Trail and Open Space, and increases access to Open Space that the City has jointly purchased. For Superior, commuters and recreational users will have a more comprehensive regional trail network that can be accessed from the Coal Creek trail right in their community. And the trail will link Broomfield open spaces and trails with the Boulder County regional trails network and open spaces.

**3.** Does the proposed project cross and/or benefit another **subregion(s)**? If yes, which ones and how?

Yes, this project includes both the Boulder County and Broomfield County subregions by connecting regional and local trails within both subregions.

**4.** How will the proposed project address the specific transportation problem described in the **Problem Statement** *(as submitted in Part 1, #8)*?

The project will add a new bicycle and pedestrian facility along 104th Street, where no contiguous connection currently exists. The trail will connect two regional trail systems that serve as backbone trails for their communities in making local trail connections.

5. One foundation of a sustainable and resilient economy is physical infrastructure and transportation. How will the **completed** project allow people and businesses to thrive and prosper?
The trail will have a direct impact on the CTC in Louisville, the largest employment center in this community, which houses approximately 5,000 employees per day. The trail connection allows these businesses and their employees to have direct access to two major regional trail systems, to have better bicycle commuting facilities, and improved walkability to local open space and recreational areas. In addition, the trail addition would support connections to downtown Louisville and Lafayette. This trail will improve upon the existing physical infrastructure by adding this facility to the existing roadway.

6. How will connectivity to different travel modes be improved by the proposed project?

Residents, visitors and employees in the area will now have alternate modes options available, and improved access to major job centers and regional transit lines. The bicycle and pedestrian trail expansion will allow for connections to regional transit including the Flatiron Flyer BRT on US 36 at East Flatiron Station, and will be connected to major urban and job centers. People will be able to bike or walk to open spaces for recreational purposes where they previously had to drive.

7. Describe funding and/or project partnerships *(other subregions, regional agencies, municipalities, private, etc.)* established in association with this project.

This project represents a multi-jurisdictional partnership between two subregions and three entities. The Cities of Lafayette and Louisville will partner with Boulder County to construct the trail, and execute an IGA for maintenance for the ongoing management of the facility. The City and County of Broomfield has been actively involved in the alignment discussions, and are working with the project partners to identify additional connections and facilities that would further leverage this investment.

Letters of support available in Attachment 6.

## B. DRCOG Board-approved Metro Vision TIP Focus Areas

WEIGHT **30%**

*Provide **qualitative and quantitative** (derived from Part 3 of the application) responses to the following questions on how the proposed project addresses the three DRCOG Board-approved Focus Areas (in bold).*

1. Describe how the project will **improve mobility infrastructure and services for vulnerable populations (including improved transportation access to health services).**

This project could provide a connection to regional transit for individuals who do not own a car but wish to work at the CTC, which is a major job center. It provides a safe and direct bicycle connection to the US 36 bikeway and US 36 BRT. There is currently no transit connectivity to the CTC, but approximately 45% of the employees at this location come from areas to the east, and primarily along the US 36 corridor. This would make a connection by bike to the US 36 Flatiron Flyer BRT.

As depicted on the map, this trail runs along Open Space and commercial/industrial development, and therefore is not surrounded by heavily populated areas. Within one mile of the area there are vulnerable individuals that will benefit from this mobility option: 825 persons over 65, 718 minority persons, 473 linguistically challenged persons and 2112 individuals with disabilities and 940 children aged 6 – 17. In addition, there are 494 low-income households and 164 households without a motor vehicle. With over 5,700 individuals with potential mobility challenges, this additional mode of transportation will greatly improve upon current conditions.

2. Describe how the project will **increase reliability of existing multimodal transportation network.**

This provides a relaible multimodal facilitity by adding a seperated bike and pedestrian trail along 104th Street and connecting the Coal Creek and Rock Creek regional trail corridors. For indivdiuals who live or work within the area, this will provide a permanent, continuous facility for multimodal use. In addition, the trail provides a north/south connection between the Coal Creek and Rock Creek trail systems, providing a reliable, accessible connection within in close proximity to the Cities of Louisville and Lafayette. The two trails do not converge until much farther east in Erie, which is a significnat distance for users in and around 104th Street.

**3.** Describe how the project will **improve transportation safety and security.**

The project will improve transportation safety by removing cyclists from the roadway and providing a separated trail for bicycle use. The current vehicle use, at 19,000 ADT, and lack of bicycle lanes or contiguous walking path creates an unsafe situation and poor experience for these users. The addition of a continuous multi-use path will improve safety for all modes of travel by separating pedestrian uses to the new trail. The project also utilizes safe pedestrian crossings at major intersections that will be installed in conjunction with new traffic signals.

## C. Consistency & Contributions to Transportation-focused Metro Vision Objectives

WEIGHT **20%**

*Provide **qualitative and quantitative** responses (derived from Part 3 of the application) to the following items on how the proposed project contributes to Transportation-focused Objectives (in bold) in the adopted Metro Vision plan. Refer to the expanded Metro Vision Objective by clicking on links.*

| MV objective 2 | **Contain urban development in locations designated for urban growth and services**. |
|---|---|

**1.** Will this project help focus and facilitate future growth in locations where urban-level infrastructure already exists or areas where plans for infrastructure and service expansion are in place? ☐ Yes ☐X No

| MV objective 3 | **Increase housing and employment in urban centers**. |
|---|---|

**2.** Will this project help establish a network of clear and direct multimodal connections within and between urban centers, or other key destinations? ☐ X Yes ☐ No

This project supports the objective of increasing multimodal enhancement along corridors, in this case by adding a separated bicycle and pedestrian facility to enhance the use of alternate modes. The proposed trail connects with several urban centers, including the City of Louisville's CTC and downtown, downtown Lafayette, the Town of Superior through the Coal Creek Trail, and the City and County of Broomfield trail system through the Rock Creek Trail. In addition, the trail will directly link into the East Flatiron Parkway Park-n-Ride, allowing people from around the metro area to access these key destinations and explore this extensive regional trail system.

| MV objective 4 | **Improve or expand the region's multimodal transportation system, services, and connections**. |
|---|---|

**3.** Will this project help increase mobility choices within and beyond the region for people, goods, or services? ☐ X Yes ☐ No

This project will allow for the use of a new mobility choice – walking or bicycling – along the 104th St. corridor. It will provide a new trail connection between two of Boulder County's heaviest used regional trail systems, Coal Creek and Rock Creek.

| MV objective 6a | **Improve air quality and reduce greenhouse gas emissions**. |
|---|---|

| | | |
|---|---|---|
| **4.** | Will this project help reduce ground-level ozone, greenhouse gas emissions, carbon monoxide, particulate matter, or other air pollutants?<br><br>Based on the trail usage on the Rock Creek and Coal Creek trails, there will be a reduction in ozone, greenhouse gas emissions, carbon monoxide and particulate matter due to the increase in people riding their bikes or walking along this corridor vs. driving. The GHG reductions from bicycle use on the trail would be approximately 78 lbs. in the first year, and 5.2 lbs. from pedestrians. The trailhead at Stearns Lake received 110,519 vehicle visits in 2017, which indicates a very high number of users are driving to the trailhead. This project will provide a connection that will support more people in the region walking, hiking or bicycling to the trailhead instead of driving. | ☐X Yes ☐ No |

| MV objective 7b | **Connect people to natural resource or recreational areas**. |
|---|---|

| | | |
|---|---|---|
| **5.** | Will this project help complete missing links in the regional trail and greenways network or improve other multimodal connections that increase accessibility to our region's open space assets? | ☐X Yes ☐ No |

This trail is critical in completing a Louisville/Lafayette connection from the Coal Creek to Rock Creek Regional Trails. The trails currently converge several miles to the east in Erie, but some of the heaviest use is in Louisville at Empire Rd, which is the northern starting point for this connection. The trail will not only provide connections for commuters and regional travelers, but will also provide a direct connection to one of Boulder County Parks and Open Space most popular parks, Rock Creek Farm. In addition, the communities have invested in open spaces throughout the area that are not currently accessible to recreational use. This trial connection will provide transportation and recreational uses on these open space areas (three properties) that have active agricultural uses, giving users the opportunity to see the benefits of these open space assets in preserving agriculture and natural resources in our community.

| MV objective 10 | **Increase access to amenities that support healthy, active choices.** |
|---|---|

| | | |
|---|---|---|
| **6.** | Will this project expand opportunities for residents to lead healthy and active lifestyles? | ☐X Yes ☐ No |

With an estimated 200,000 users on the two regional trails that will be connected by this trail, this provides significant opportunity to help residents in numerous neighboring communities lead a healthy and active lifestyle. The trail will provide the ability to connect these two trails, and easily access a large open space area that allows hiking, biking, birdwatching, fishing, picnicking and other outdoor activities that enhance physical and mental health.

| MV objective 13 | **Improve access to opportunity**. |
|---|---|

| | | |
|---|---|---|
| **7.** | Will this project help reduce critical health, education, income, and opportunity disparities by promoting reliable transportation connections to key destinations and other amenities? | ☐X Yes ☐ No |

The project provides access by bike or walking to regional trails and open space areas. This provides a trail connection to open space amenities, as well as jobs and other amenities for people who do not own a vehicle. The trail is an easy, accessible grade that will provide an alternate transportation option for people of most ages and abilities.

Within one mile of the area there are vulnerable individuals that will benefit from this mobility option: 825 persons over 65, 718 minority persons, 473 linguistically challenged persons and 2112 individuals with disabilities and 940 children aged 6 – 17. In addition, there are 494 low-income households and 164 households without a

motor vehicle. Individuals without a motor vehicle will have another option to access employment at the CTC, and children within a mile of this area will have a safe path to bike or walk to school.

| MV objective 14 | **Improve the region's competitive position**. |
|---|---|

| | |
|---|---|
| **8.** Will this project help support and contribute to the growth of the region's economic health and vitality? | ☐X Yes ☐ No |

The trail will give more people the opportunity to experience our region using alternate modes, including bikes and on foot. It will support access to open space areas from public transit, at the RTD Park n Ride in Broomfield. It will provide a bicycle connection for commuters that work or live in Louisville and Lafayette, instead of driving their car. Open Spaces and trials are a significant economic draw for our region, and this trail will expand the opportunities to bike or hike to and from businesses within Louisville and Lafayette, as well as the broader region.

## D. Project Leveraging

WEIGHT **10%**

| | | |
|---|---|---|
| **9.** What percent of outside funding sources (non-DRCOG-allocated Regional Share funding) does this project have? | | 80%+ outside funding sources .....High<br>60-79% .....Medium<br>59% and below .....Low |

| Part 3 | Project Data Worksheet – Calculations and Estimates (Complete all subsections applicable to the project) |
|---|---|

## A. Transit Use

| | |
|---|---|
| **1.** Current ridership weekday boardings | |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | | | |
| 2040 | | | |

| Transit Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|
| **3.** Enter estimated additional daily transit boardings after project is completed.<br>*(Using 50% growth above year of opening for 2040 value, unless justified)*<br>*Provide supporting documentation as part of application submittal* | | |
| **4.** Enter number of the additional transit boardings (from #3 above) that were previously using a different transit route.<br>(Example: **{#3 X 25%}** *or other percent, if justified)* | | |
| **5.** Enter number of the new transit boardings (from #3 above) that were previously using other non-SOV modes (walk, bicycle, HOV, etc.)<br>(Example: **{#3 X 25%}** *or other percent, if justified)* | | |
| **6.** = Number of SOV one-way trips reduced per day (#3 – #4 – #5) | | |
| **7.** Enter the value of **{#6 x 9 miles}**. (= **the VMT reduced per day**)<br>*(Values other than the default 9 miles must be justified by sponsor; e.g., 15 miles for regional service or 6 miles for local service)* | | |
| **8.** = Number of pounds GHG emissions reduced (#7 x 0.95 lbs.) | | |
| **9.** If values would be distinctly greater for weekends, describe the magnitude of difference: | | |
| **10.** If different values other than the suggested are used, please explain here: | | |

## B. Bicycle Use

| | |
|---|---|
| **1.** Current weekday bicyclists | 231 (on connecting trail) |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | 14,716 | 8,011 | **22,727** |
| 2040 | 15,491 | 8,433 | **23,924** |

| Bicycle Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|

| | | |
|---|---|---|
| **3.** Enter estimated additional weekday one-way bicycle trips on the facility after project is completed. | 115.5 | 127.1 |
| **4.** Enter number of the bicycle trips (in #3 above) that will be diverting from a different bicycling route. (Example: **{#3 X 50%}** *or other percent, if justified)* | 57.75 | 63.55 |
| **5.** = Initial number of new bicycle trips from project (#3 – #4) | 58 | 64 |
| **6.** Enter number of the new trips produced (from #5 above) that are replacing an SOV trip. (Example: **{#5 X 30%}** *(or other percent, if justified)* | 17 | 19 |
| **7.** = Number of SOV trips reduced per day (#5 - #6) | 41 | 45 |
| **8.** Enter the value of **{#7 x 2 miles}**. (= the VMT reduced per day) *(Values other than 2 miles must be justified by sponsor)* | **82** | **90** |
| **9.** = Number of pounds GHG emissions reduced (#8 x 0.95 lbs.) | 77.9 | 85.5 |
| **10.** If values would be distinctly greater for weekends, describe the magnitude of difference: | | |
| **11.** If different values other than the suggested are used, please explain here: | | |

## C. Pedestrian Use

| | |
|---|---|
| **1.** Current weekday pedestrians (include users of all non-pedaled devices) | 78 |
| **2.** Population and Employment | |

| Year | Population within 1 mile | Employment within 1 mile | Total Pop and Employ within 1 mile |
|---|---|---|---|
| 2020 | 14,716 | 8,011 | **22,727** |
| 2040 | 15,491 | 8,433 | **23,924** |

| Pedestrian Use Calculations | Year of Opening | 2040 Weekday Estimate |
|---|---|---|
| **3.** Enter estimated additional weekday pedestrian one-way trips on the facility after project is completed | 39 | 43 |
| **4.** Enter number of the new pedestrian trips (in #3 above) that will be diverting from a different walking route (Example: **{#3 X 50%}** *or other percent, if justified)* | 19.5 | 21.5 |
| **5.** = Number of new trips from project (#3 – #4) | 19.5 | 21.5 |
| **6.** Enter number of the new trips produced (from #5 above) that are replacing an SOV trip. (Example: **{#5 X 30%}** *or other percent, if justified)* | 5.85 | 6.45 |
| **7.** = Number of SOV trips reduced per day (#5 - #6) | 13.65 | 15.05 |
| **8.** Enter the value of **{#7 x .4 miles}**. (**= the VMT reduced per day**) *(Values other than .4 miles must be justified by sponsor)* | 5.46 | 6.02 |
| **9.** = Number of pounds GHG emissions reduced (#8 x 0.95 lbs.) | 5.2 | 5.72 |

| | |
|---|---|
| **10.** If values would be distinctly greater for weekends, describe the magnitude of difference: | |
| **11.** If different values other than the suggested are used, please explain here: | |

## D. Vulnerable Populations

| | Vulnerable Populations | Population within 1 mile |
|---|---|---|
| Use Current Census Data | **1.** Persons over age 65 | 825 |
| | **2.** Minority persons | 718 |
| | **3.** Low-Income households | 494 |
| | **4.** Linguistically-challenged persons | 473 |
| | **5.** Individuals with disabilities | 2112 |
| | **6.** Households without a motor vehicle | 164 |
| | **7.** Children ages 6-17 | 940 |
| | **8.** Health service facilities served by project | |

## E. Travel Delay *(Operational and Congestion Reduction)*

Sponsor must use industry standard Highway Capacity Manual (HCM) based software programs and procedures as a basis to calculate estimated weekday travel delay benefits. *DRCOG staff may be able to use the Regional Travel Model to develop estimates for certain types of large-scale projects.*

| | |
|---|---|
| **1.** Current ADT (average daily traffic volume) on applicable segments | 0 |
| **2.** 2040 ADT estimate | 0 |
| **3.** Current weekday vehicle hours of delay (VHD) (before project) | 0 |

| Travel Delay Calculations | Year of Opening |
|---|---|
| **4.** Enter calculated future weekday VHD (after project) | 0 |
| **5.** Enter value of **{#3 - #4} =** Reduced VHD | 0 |
| **6.** Enter value of **{#5 X 1.4}** = **Reduced person hours of delay** *(Value higher than 1.4 due to high transit ridership must be justified by sponsor)* | 0 |
| **7.** **After project peak hour congested average travel time reduction** per vehicle (includes persons, transit passengers, freight, and service equipment carried by vehicles). *If applicable, denote unique travel time reduction for certain types of vehicles* | 0 |
| **8.** If values would be distinctly different for weekend days or special events, describe the magnitude of difference. | |
| **9.** If different values other than the suggested are used, please explain here: | |

## F. Traffic Crash Reduction

| | | |
|---|---|---|
| **1.** Provide the current number of crashes involving motor vehicles, bicyclists, and pedestrians *(most recent **5-year** period of data)* | | Sponsor must use industry accepted crash reduction factors (CRF) or accident modification factor (AMF) practices *(e.g., NCHRP Project 17-25, NCHRP Report 617, or DiExSys methodology).* |
| **Fatal** crashes | 0 | |
| **Serious Injury** crashes | 0 | |
| **Other Injury** crashes | 0 | |
| **Property Damage Only** crashes | 0 | |
| **2.** Estimated reduction in crashes applicable to the project scope *(per the five-year period used above)* | | |
| **Fatal** crashes reduced | 0 | |
| **Serious Injury** crashes reduced | 0 | |
| **Other Injury** crashes reduced | 0 | |
| **Property Damage Only** crashes reduced | 0 | |

## G. Facility Condition

Sponsor must use a current industry-accepted pavement condition method or system and calculate the average condition across all sections of pavement being replaced or modified.
Applicants will rate as: Excellent, Good, Fair, or Poor

| | |
|---|---|
| ***Roadway Pavement*** | |
| 1. Current roadway pavement condition | |
| 2. Describe current pavement issues and how the project will address them. | |
| 3. Average Daily User Volume | |
| ***Bicycle/Pedestrian/Other Facility*** | |
| 4. Current bicycle/pedestrian/other facility condition | Choose an item |
| 5. Describe current condition issues and how the project will address them. | |
| 6. Average Daily User Volume | 0 |

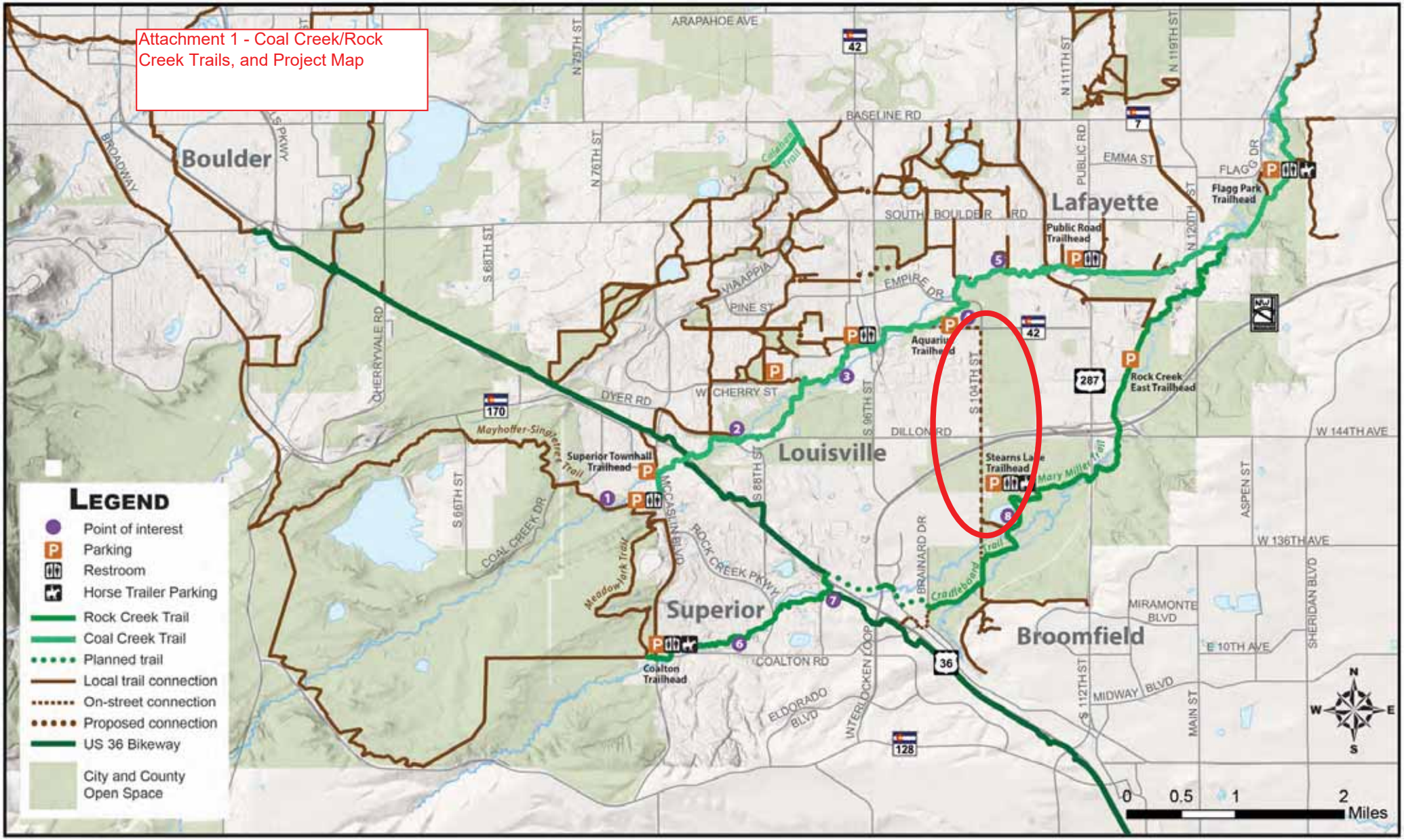
## H. Bridge Improvements

| | |
|---|---|
| 1. Current bridge structural condition from CDOT | |
| 2. Describe current condition issues and how the project will address them. | |
| 3. Other functional obsolescence issues to be addressed by project | |
| 4. Average Daily User Volume over bridge | |

| I. **Other Beneficial Variables** *(identified and calculated by the sponsor)* | |
|---|---|
| 1. | |
| 2. | |
| 3. | |

| J. **Disbenefits or Negative Impacts** *(identified and calculated by the sponsor)* | |
|---|---|
| **1.** Increase in VMT? *If yes, describe scale of expected increase* | ☐ Yes ☐ X No |
| | |
| **2.** Negative impact on vulnerable populations<br>No | |
| **3.** Other: | |

Attachment 1 - Coal Creek/Rock Creek Trails, and Project Map



# Points of Interest – *Things to Check Out*

Mayhoffer-Singletree Trail

1921 Railroad Trestle at Commerce Court in Lafayette

Community Park

Coal Creek Golf Course

Coal Creek Trail

Dutch Creek

Stearn's Lake

Coal Creek Trail

1. Learn about Superior's mining history on the Mayhoffer-Singletree Trail.
2. Stop and enjoy lunch at the Coal Creek Golf Course which opened in 1990.
3. Ride the first trail segment! The trail from Aspen Way to Dutch Creek opened in 1990.
4. Find your favorite mountain peak with the Aquarius Trailhead's "Peak Finder."
5. Relax and enjoy the new up-close seating area along Coal Creek.
6. Enjoy a picnic at Superior's Community Park.
7. Ride to Flatiron Crossing for an afternoon of shopping.
8. Catch a fish at Boulder County's Stearns Lake at Carolyn Holmberg Preserve (Colorado State fishing license required).

## Rules & Regulations

- *Unauthorized motor vehicles prohibited.*
- *Pets must be on a leash and under physical control at all times.*
- *Pick up your animal's waste and dispose of properly.*
- *Stay on designated trail; private property borders trail in places.*
- *Bicyclists must yield the right-of-way to other users.*
- *Do not harass wildlife or disturb natural vegetation.*
- *Local ordinances apply.*

## Managing Agencies

**Boulder County** | Parks and Open Space Department
303-678-6200; www.BoulderCountyOpenSpace.org

**City & County of Broomfield** | Open Space and Trails Department
303-464-5803; www.broomfield.org/openspace

**Town of Erie** | Parks & Recreation Department
303-926-2796; www.erieco.gov

**City of Lafayette** | Parks, Open Space & Golf Department
303-661-1306; www.cityoflafayette.com

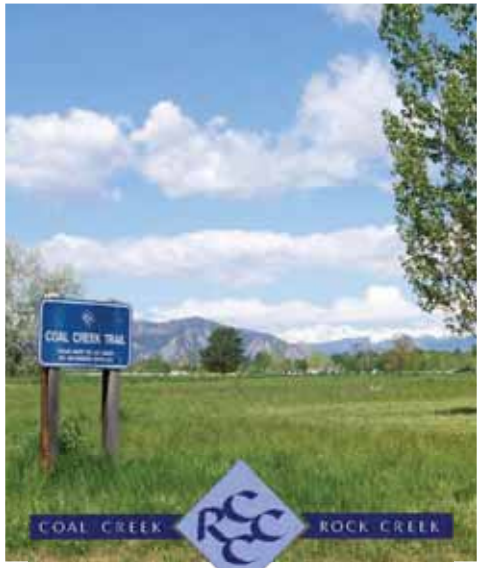
**City of Louisville** | Parks & Recreation Department
303-335-4735; www.louisvilleco.gov

**Town of Superior** | Parks, Recreation & Open Space Department
303-499-3675; www.superiorcolorado.gov

COAL CREEK RCC ROCK CREEK

BOULDER COUNTY TRANSPORTATION, 2017

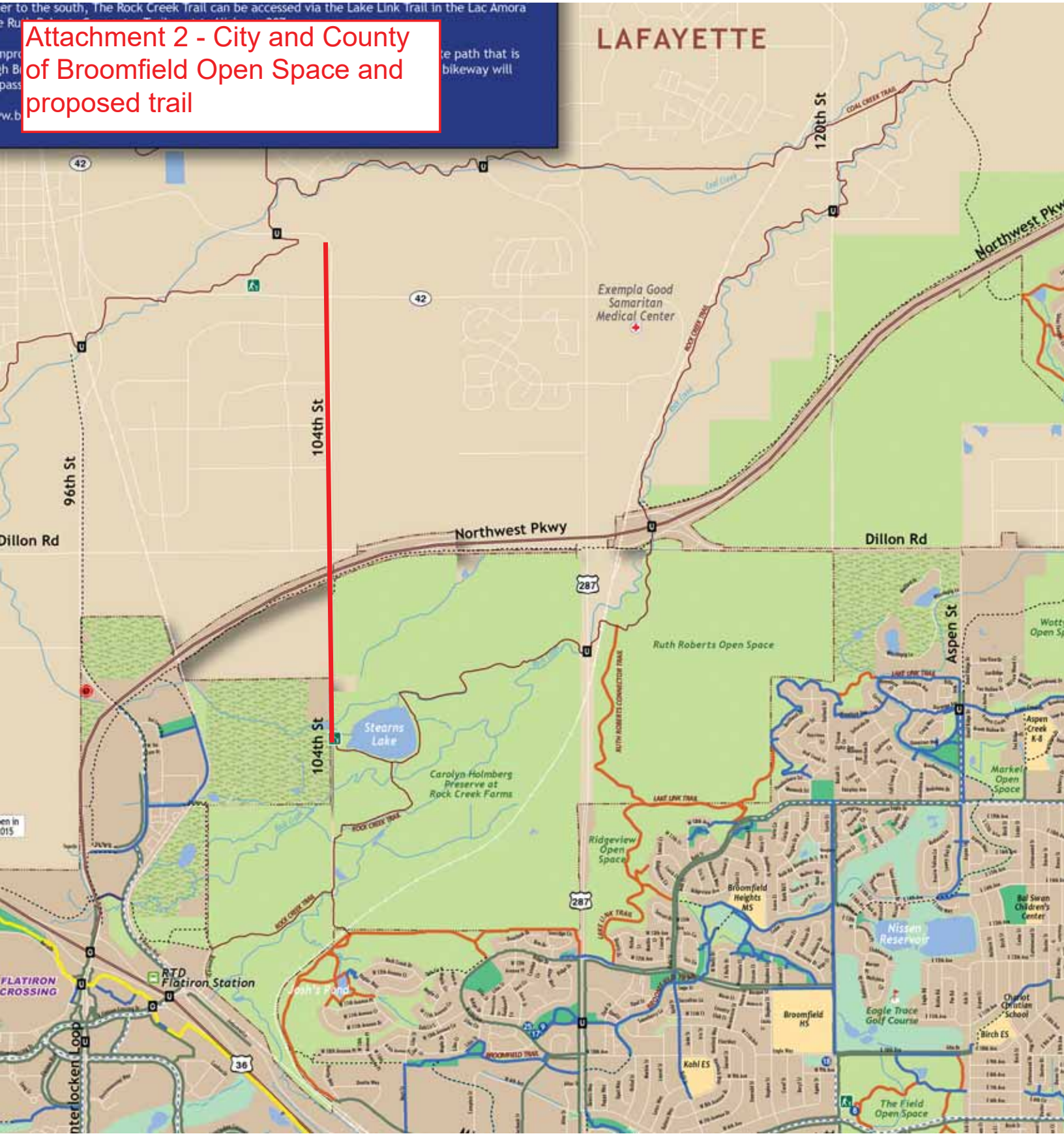
# Coal Creek/ Rock Creek
## REGIONAL TRAIL SYSTEM




BOULDER COUNTY
CITY AND COUNTY OF BROOMFIELD
TOWN OF ERIE
CITY OF LAFAYETTE
CITY OF LOUISVILLE
TOWN OF SUPERIOR

Urban Drainage & Flood Control District
Great Outdoors Colorado

Attachment 2 - City and County of Broomfield Open Space and proposed trail



Atachment 3 - Conceptual Alignment

## 104th Street Illustrative Regional Trail Alignment:

*A Regional Trail Connection from the Intersection of Empire Road and Coal Creek Trail , south, crossing Dillon Road, south, to the Trail Head and parking At Sterns Lake. Continue south from Sterns Lake on the existing Rock Creek Trail passing Rock Creek and on to the existing US 36 & Flatiron Station park and ride.*

City of Louisville
Parks, Recreation, Open Space and Trails Department

104th STREET ILLUSTRATIVE REGIONAL TRAIL ALIGNMENT

Google Earth Image

0 500 1000

Approximate Scale: 1" = 1000'-0" North

Illustrative Plan L-1

# 104 Street Illustrative Regional Trail Allignment

February 22, 2019

## Initial Cost *Estimate*

| | Est. Cost | Notes |
|---|---|---|
| **Trail Segment 'A'** | | |
| Concrete Sections 2,075 l.f. x 8' wide = 16,600 sq. ft. x $9 = $149,400 | $149,400.00 | $9.00 / sq. ft. placed |
| Crusher Fines Sections 5,939 l.f. x 8' wide = 47,512 sq. ft. x $4 = $47,512 | $47,512.00 | $4.00 / sq. ft. placed |
| **Trail Segment 'B'** | | |
| Concrete Sections 340 l.f. x 8' wide = 2,720 sq. f.t. x $9 = $24,480 | $24,480.00 | $9.00 / sq. ft. placed |
| Crusher Fines Sections 2,931 l.f. x 8' wide = 23,448 sq. ft. x $4 =$93,792 | $93,792.00 | $4.00 / sq. ft. placed |
| Boardwalk 100' x 8' wide = $56,000 | $56,000.00 | |
| Goodhue Ditch - 18' x 8' wide Steel Truss Bridge | $61,632.00 | |
| Goodhue Ditch - Crossing fee | $5,000.00 | |
| Goodhue Ditch - Review | $2,000.00 | |
| Goodhue Ditch - Hydraulic Study | $5,000.00 | |
| **Both Trail Segments** | | |
| Site Survey | $10,000.00 | |
| Utility Mitigation / Relocation | $30,000.00 | |
| Environmental Study | $30,000.00 | |
| Cut / Fill / Compaction | $20,000.00 | Placer Holder, Actual Amount Defined in Design |
| Relocate / Pipe Ditch Sections | $20,000.00 | Placer Holder, Actual Amount Defined in Design |
| **Sub Total** | **$554,816.00** | |
| Bonding and Mobilization | $44,385.00 | 8% of Project Costs |
| Design | $83,222.00 | 15% of Project Costs |
| Materials Testing | $83,222.00 | 2% of Project Costs |
| Traffic Control | $5,548.00 | 10% of Project Costs |
| Erosion Control Silt Fencing | $22,806.00 | $2.00 / lf. x Length |
| Clear and Grub | $9,579.00 | $0.06 / sf. x 159,642 sf. |
| Revegetation / Hydromulch - 4' on E. side of trail and 10 W. side of trail x length | $4,789.00 | $0.03 / sf. x 159,642 sf. |
| Contingency | $83,222.00 | 15% of Project Costs |
| **Estimated Total** | **$891,589.00** | |
| | $53,495.34 | 3% CPI over two years |
| **Estimated Total Project Cost** | **$945,084.34** | |

Trail Segment A, 8,014 linear feet or 1.5 miles
Trail Segment B, is 3,389 linear feet or .6 miles

**Total Length A+B = Approximately 11,403 linear feet or 2.6 miles**

Attachment 5
Coal Creek Trail
Counts

# Daily totals report

Covering 16 days from 2017-05-22 to 2017-06-06

Report generated on 2017-06-07 by ben.mazal@cityoflafayette.com

www.trafx.net

| Site Name | | Average | Min | Max |
|---|---|---|---|---|
| COAL CREEK WEST | | 384.9 | 236.0 | 536.0 |

A = adjustment applied, D = divide by 2 applied, F = filtering applied

# Daily/Weekly/Monthly totals report

From 2017-06-01 to 2017-09-30

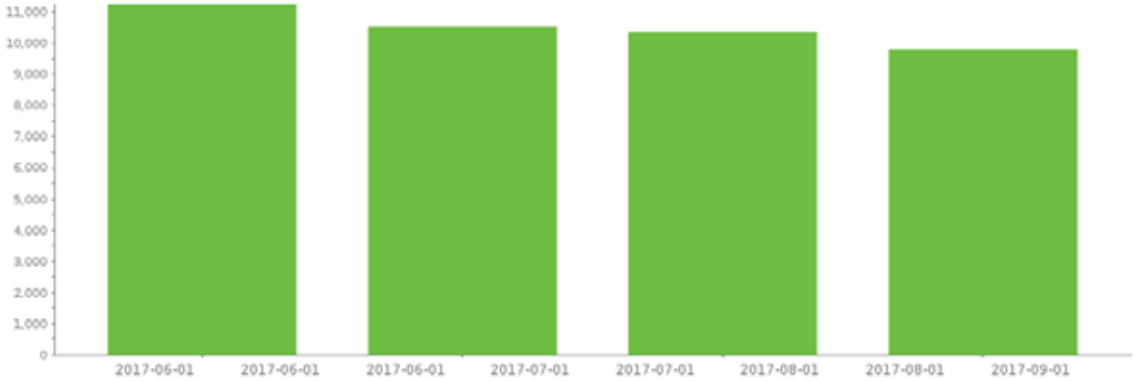
Report generated on 2017-09-26 by ben.mazal@cityoflafayette.com

www.trafx.net

**Daily Totals**

**Weekly Totals***

**Monthly Totals***




**Site Name**

COAL CREEK WEST

* Weekly and Monthly totals are based on Average Daily Traffic (ADT)

Boulder County

# Parks & Open Space

5201 St. Vrain Road • Longmont, Colorado 80503
303.678.6200 • Fax: 303.678.6177 • www.BoulderCountyOpenSpace.org

February 22, 2019

Dear DRCOG,

Boulder County Parks & Open Space is writing to share our support for the City of Louisville Subregional TIP application for the 104th Regional Trail Connection. This proposal would create an important regional trail connection between the Coal Creek Trail and the Rock Creek Trail at the Carolyn Holmberg Preserve at Rock Creek Farm. This proposed trail has been a priority of both the City of Louisville and City of Lafayette and Boulder County for many years.

The cities of Lafayette and Louisville, along with Boulder County, have acquired numerous open space properties and trail easements in southeast Boulder County. These open spaces support preservation, recreation, and also regional trails that facilitate travel between our communities. The Coal Creek Trail is one of the longest, most heavily used regional trails in Boulder County. Many residents use this trail for recreational and transportation purposes, as it connects people to jobs, services and amenities. The Rock Creek Trail is another important regional trail connection that links Boulder County and Broomfield. The proposed trail connection will allow residents to travel from Lafayette through Louisville and connect to Broomfield, providing a new connection to natural areas, homes, jobs, and transit connections including the US 36 Flatirons Station. The proposed 104th Street Regional Trail connection will improve multi-modal transportation opportunities for cyclists and walkers looking to connect these two significant regional trails, as well as connecting into the US 36 Bikeway and Broomfield trail system.

The county has planned for funding for this trail in its 5 year CIP budget, and will contribute its share local match for this project in 2021 and 2022.

The City urges DRCOG and the Boulder County Subregional TIP forum to support this project for TIP funding.

Sincerely,

Eric Lane, Director
Boulder County Parks & Open Space

February 17, 2019

Dear DRCOG,

The City of Lafayette is writing to share our support for the City of Louisville Subregional TIP application for the 104th Regional Trail Connection. This proposal supports an important regional trail connection, and one that has been a priority for the City of Lafayette for many years.

The Cities of Lafayette and Louisville, along with Boulder County, have purchased several open spaces and trail easements in southeast Boulder County. These open space areas support preservation, recreation, and also regional trails that facilitate travel between our communities. The Coal Creek Trail is one of the longest, most heavily used regional trails in Boulder County. Lafayette residents use this trail for recreational and transportation purposes, as it connects people to jobs, services and amenities.

The Rock Creek Trail is another important regional trail connection that links Boulder County and Broomfield. The proposed trail connection will allow our residents to travel from Lafayette through Louisville and connect to Broomfield, providing a new connection to natural areas, homes, jobs, and transit connections including the US 36 Flatirons Station.

This trail will improve multi-modal transportation opportunities for cyclists and walkers looking to connect these two significant regional trails, as well as connecting into the US 36 bikeway and Broomfield trail system.

The City has planned for funding for this trail in its 5 year CIP budget, and will contribute local match for this project in the amount of *$158,333.33* in 2021 and 2022.

The City urges DRCOG and the Boulder County Subregional TIP forum to support this project for TIP funding.

Sincerely,

Rob Burdine

Open Space Superintendent
City of Lafayette

CITY AND COUNTY MANAGER
One DesCombes Drive • Broomfield, CO 80020 • 303.438.6300 • www.broomfield.org

February 25, 2019

Denver Regional Council of Governments
1001 17th Street
Denver, CO 80202

Dear DRCOG and Boulder County Subregional TIP Forum,

The City and County of Broomfield would like to share our support for the City of Louisville's proposed TIP project for the 104th Street regional trail connection.

The project will enhance connections to the Coal Creek Regional Trail, Rock Creek Regional Trails, and Broomfield trails, including the Lake Link Trail, and to Brainard/Industrial Lane - a short distance from the East Flatirons Circle Park n Ride and US 36 Bikeway access at the station.

In addition, Broomfield plans to improve Industrial Lane for multimodal access. Later this year Broomfield will complete the Midway Multi-use Bridge over BNSF railway located near Midway at Hoyt Street. With Louisville's improvements along 104th to access the Lake Link Trail, residents, employees, and visitors of both Boulder and Broomfield Subregions will have increased access and connectivity across subregions.

This multimodal project will address regional multi-use trail connections to the regional active transportation network across subregional boundaries and to the US 36 multi-modal corridor.

The City and County of Broomfield supports the City of Louisville's DRCOG application to the Boulder County Subregional TIP forum for funding. If selected for funding Broomfield requests that the City of Louisville work with Broomfield staff to reach out to Broomfield residents on 104th Street about the project.

Sincerely,

Charles Ozaki
City and County Manager

# CITY COUNCIL COMMUNICATION
## AGENDA ITEM 5H

**SUBJECT:** **APPROVE LANDSCAPE MAINTENANCE SERVICES CONTRACT**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **NATHAN MOSLEY, PARKS, RECREATION AND OPEN SPACE DIRECTOR**

**SUMMARY:**
The City's five-year landscape maintenance services contract expired following the 2019 season. Landscape maintenance contractual services were then evaluated, reprioritized, and reformatted into the 2020-2024 Contract Manual.

An Invitation to Bid was published on January 28th and February 4th in the *Daily Camera*. The bid opening occurred on February 20th. Subsequently, the contract manual was revised on February 28th to reflect Council direction to discontinue the use of the synthetic herbicide glyphosate for weed control. The contract manual now directs the contractor to use an organic or non-synthetic herbicide for weed control. Any herbicide used must be pre-approved by the Parks Superintendent. It should be noted non-synthetic herbicides are not as effective and will require consistent and constant effort to control. Non-synthetic herbicides are burn down products that do not translocate to the root system which allows for quicker regrowth of the weeds. It is difficult to replicate the bare ground look that synthetic herbicides provide. The contract manual has been revised to reflect this level of service.

The following bids were received on March 5th and incorporate the use of an organic herbicide as a substitute for glyphosate:

| COMPANY | ADDRESS | BID AMOUNT |
|---|---|---|
| BrightView Landscape Services, Inc. | 645 Compton St., Broomfield, CO 80020 | 2020 - $178,629<br>2021 - $178,629<br>2022 - $182,202<br>2023 - $185,846<br>2024 - $185,846 |
| Keesen Landscape Management, Inc. | 3355 S. Umatilla St., Englewood, CO 80110 | $193,632.18 |
| Terracare Associates, LLC | 15603 E. Fremont, Dr. Centennial, CO 80112 | $197,583.11 |

Revised bids were then evaluated based on such things as: price, referrals, quality, service history, equipment fleet, municipal landscape, and age of the company.

At the conclusion of the evaluation, staff believes BrightView Landscape Services to be the lowest responsible and best overall bid.

Landscape maintenance services that could be performed by BrightView Landscape Services under this contract include the following:

- Mowing 2,291,096 square feet of bluegrass 28 times
- Weed control for 383,254 square feet of beds 28 times
- Non-irrigated perimeter mowing for 57,768 liner feet 14 times
- Mowing 555,201 square feet of non-irrigated turf 14 times
- Right-of-way mowing of 37,659 square feet of non-irrigated turf 3 times
- Cemetery mowing 362,539 square feet 28 times

**FISCAL IMPACT:**
Accounts for this project are 201751-547000 in the amount of $109,070; 101435-547000 in the amount of $46,740; 204752-547000 in the amount of $1,000. These accounts provide a total available budget of $156,810.

Based on the low bid of $178,629 there is a $21,819 shortfall in funds. This is largely due to the change from the use of a synthetic herbicide to a non-synthetic herbicide. If approved, staff will bring forward a budget amendment in May/June requesting an additional $22,000 to cover the additional expenses related to this contract.

**PROGRAM/SUB-PROGRAM IMPACT:**
This project impacts the Parks program as well as the Streetscapes and Cemetery sub-programs by helping to meet the identified goals of providing safe and visually appealing areas adjacent to streets and sidewalks. Additionally, the project will ensure The City's public landscaped areas and cemetery are well maintained.

**RECOMMENDATION:**
Staff recommends City Council approve the 2020-2024 Landscape Maintenance Services Contract to BrightView Landscape Services, in the following amounts:

2020 - $178,629
2021 - $178,629
2022 - $182,202
2023 - $185,846
2024 - $185,846

Based on Council approval, staff will finalize the contract with no substantive changes for the Mayor's signature.

**ATTACHMENT(S):**

1. Landscape Maintenance Services Contract Manual
2. Brightview Revised Bid
3. City of Louisville Standard Independent Contractor Agreement

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☒ | **Financial Stewardship & Asset Management** | ☒ | **Reliable Core Services** |
| ☐ | **Vibrant Economic Climate** | ☒ | **Quality Programs & Amenities** |
| ☐ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

CITY OF LOUISVILLE

# Contract Manual

## For 2020-2024 Landscape Maintenance Services

Bid Opening, Thursday, February 20, 10:00 a.m.

Prepared by: City of Louisville, January 2020

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## CITY OF LOUISVILLE, COLORADO


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# Section 1

# Invitation to Bid

## INVITATION TO BID

Sealed Bids will be received by the

## CITY OF LOUISVILLE, STATE OF COLORADO

hereinafter referred to as OWNER, at the City Services Facility, 739 S. 104th St., Louisville, Colorado 80027, until **10:00 a.m., Mountain Standard Time,** on **Thursday**, **February 20, 2020** for the

## 2020-2024 LANDSCAPE MAINTENANCE SERVICES

Bids received after said closing time of 10:00 a.m., Mountain Standard Time, on **February 20, 2020**, will not be accepted and will be returned unopened. Bids shall be in a sealed envelope plainly marked with the Project Name, Company Name, Date and addressed to:

City Services Facility
Attn: Dean Johnson
739 S. 104th St.
Louisville, CO 80027

All bids that have been duly received will be publicly opened and read aloud at the City Services Facility, 739 S. 104th St., Louisville, Colorado.

The work for which the Bid is requested includes but is not limited to: mowing, trimming, edging, weed control, litter removal, and other related maintenance services. Contractor is expected to obtain all permits and licensing as required in the project documents, provide insurance and bonding, and comply with all applicable codes and industry standards. This is an annual contract, renewable up to five years.

The bid document which is the Contract Manual and includes location maps are available on the City website under the heading, "Business, Bidding Opportunities/Requests for Proposals", https://www.louisvilleco.gov/business/bidding-opportunities. Bids will be received on a unit and lump sum price basis as described in the Bidding Documents.

For questions pertaining to this Bid, please contact Dean Johnson, Parks Superintendent at deanj@louisvilleco.gov . Questions will be received up to Tuesday, February 11th, 5:00 p.m., at which if necessary answered in an addendum and posted on the City website (https://www.louisvilleco.gov/business/bidding-opportunities) on Thursday, February 13th by 5:00 p.m.

Each Bid must be accompanied by a Bid security consisting of a properly Certified Check, Cashier's Check, or Bid Bond, in the amount of five (5) percent of BIDDER's Total Bid Price, without conditions, payable to the City of Louisville. Bid security will be retained by the City until the seventh day after the Effective Date of the Agreement whereupon Bid security furnished by such BIDDER's will be returned. Bid security with Bids, which are not competitive will be returned within fourteen days after the Bid opening. No Bid will be considered unless accompanied by such Bid security.

No Bid may be withdrawn within a period of sixty (60) days after the date fixed for opening Bids.

The City of Louisville reserves the right to award the contract by sections, to reject any or all Bids, and to waive any informalities and irregularities therein.

The City of Louisville assumes no responsibility for payment of any expenses incurred by any respondent to this Invitation to Bid.

Preference is hereby given to materials, supplies, and provisions produced, manufactured, or grown in Colorado, quality and price being equal to articles offered by competitors outside of the State.

The City of Louisville is an Equal Opportunity Employer.

CITY OF LOUISVILLE, COLORADO
City Clerk

First Publication: **Tuesday**, **January 28, 2020**
Second Publication: **Tuesday, February 4, 2020**

# Section 2

# Instructions to Bidders

## 1.0 TITLE: LANDSCAPE MAINTENANCE SERVICES CONTRACT

The City of Louisville requests bid proposals for **Landscape Maintenance Services** at various locations throughout the City, as identified in the bid proposal.

Work shall conform to these special conditions and all generally accepted specifications of the landscape industry.

1.1 **Award** - The lowest responsible and best overall bid will be accepted. The City of Louisville reserves the right to reject any or all bids or portions thereof and to waive any informalities or defects. Awarding of the bid will take into consideration such things as: price, referrals, quality, service history, equipment fleet, municipal landscape experience, and age of the company.

Preference will be hereby given to local Contractors, based on the "Local Vendor" procedures in the City of Louisville "Purchasing Policies and Procedures Manual."

1.2 **Insurance** - Simultaneously with the execution of the Agreement, the Contractor will deliver to the Owner the required proof of insurance.

1.3 **Conference** - Before starting the work, a conference will be held to review and establish a working understanding between the parties as to the services. Present at the conference will be the Contractor and its supervisory staff, the Parks Superintendent, and the Parks Supervisors.

## 2.0 INSTRUCTIONS TO BIDDERS

2.1 Only bids submitted upon the proposal form furnished herein will be accepted. All items shall be properly filled out. Numerals, printing and signatures shall be written in ink. Signatures shall be in longhand. Alternative proposals will not be considered.

2.2 Prior to submitting a bid, bidders must satisfy themselves by personal examination of "all" areas listed on the bid proposal and by examination of the specifications and requirements of the work and quantities of work to be done, and shall not at any time, after submission of a bid, dispute or complain nor assert that there were any misunderstandings in regard to the nature or amount of work to be done. Bidders also shall carefully examine the form and time of the Contract, existing conditions and limitations, and shall include in the bid, monies to cover the cost of all services included in the agreement and all insurance and administration costs.

2.3 The bidder may withdraw any proposal submitted at any time prior to the time set for closing of bids, provided a request for withdrawal is signed in a

manner identical with the proposal being withdrawn. No withdrawal or modification will be permitted after the hour designated for closing of bids.

2.4 Sealed proposals for the work hereinafter described will be received by the **City of Louisville**, at **City Services Facility, 739 S. 104th Street, Louisville, Colorado 80027** until **10:00 a.m., Mountain Standard Time on the 20th of February, 2020** at which time all bids that have been duly received will be publicly opened and read aloud in the Conference Room at City Services Facility. Proposals may be deposited or mailed to City Services Facility, Attn: Dean Johnson, 739 S. 104th Street, Louisville, Colorado 80027.

The bids must be submitted in a sealed envelope, the outside of the envelope shall show the **"Title of Work"** as shown on page one of these documents, the **date and time of opening,** the **name of the bidder,** and **"DO NOT OPEN"**.

Proposals which are incomplete, unbalanced, conditional or obscure or which contain additions not called for, erasures, alteration or irregularities of any kind or which do not comply with this "Instructions to Bidders" may be rejected at the option of the Owner.

2.5 If discrepancies or omissions are found in the RFP or Agreement, or if the bidder is in doubt of the meaning or needs clarification, he shall notify Dean Johnson at deanj@louisvilleco.gov . If necessary one addendum will be issued to answer all questions and posted on the City website. The Owner will not be bound by, nor responsible for oral instructions, interpretations or representations.

2.6 The RFP documents contain the provisions of the agreement between the Owner and the Contractor. No information obtained from any officer, agent or employee of the Owner on any such matters shall in any way affect the risk or obligation assumed by the Contractor or relieve him from fulfilling any of the conditions of the Contract.

2.7 City of Louisville Project Representatives - The City designates Parks Superintendent, Dean Johnson as the responsible City staff members to provide direction to the Contractor.

2.8 References and Equipment List - Bidders who have not worked directly for the City of Louisville within the past three (3) years shall include a list of five (5) work references for work of similar scope to this project. Each reference shall include a brief description and location of work, owner's project representative, telephone number, and email**.** In addition to the references, the bidder shall include a list of equipment that will be available for this project.

Before the award of the contract, any bidder may be required to furnish evidence satisfactory to the Owner and Parks Superintendent of the

necessary facilities, ability and pecuniary resources to fulfill the conditions of the said contract.

## 3.0 PAYMENT

3.1 **Submitting Invoices** - The Contractor shall submit monthly a detailed invoice to City Services Facility, Attn: Dean Johnson, Parks Superintendent, 739 S. 104th Street, Louisville, Colorado 80027. The invoice should describe the services rendered. The City shall pay the invoice within thirty (30) days of receipt unless the work or the documentation is unsatisfactory.

3.2 **Liens** - If, at any time, there shall be evidence of any lien or claim for which the Owner might become liable and which is chargeable to the Contractor, the Owner shall have the right to retain out of any payment then due or thereafter to become due, an amount sufficient for complete indemnification against such lien or claim.

## 4.0 DEFINITIONS

4.1 The word "Owner" means the City of Louisville, Louisville, Colorado. The Owner will be responsible for payment in accordance with the terms of the Contract.

4.2 The word "Contractor" means the person, firm or corporation to whom the award is made.

4.3 The word "Parks Superintendent" refers to the City of Louisville, Parks Superintendent or his authorized representative, designated by the Owner as its representative during the course of the Agreement to make appropriate inspections and to process payment submittal made to the City.

4.4 The words "change order" refer to a written order to the Contractor signed by the Owner authorizing an addition, deletion or revision in the Agreement or an adjustment in the Agreement pricing.

4.5 The word "Agreement" refers to the written professional services agreement between the Owner and the Contractor covering the work to be performed, including the Contractor's bid and insurance certificates.

4.6 The word "bid" refers to the offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.

4.7 The word "bidder" refers to any person, firm, or corporation submitting a bid for the work described in this request for proposals.

## 5.0 TERM OF AGREEMENT

Agreement shall be for the period commencing on April, 2020 and ending October, 2024. Bidder acknowledges that any potential expenditure for the Agreement outside the current fiscal year is contingent upon appropriation, budgeting, and availability of specific funds for such proposed expenditure, and nothing in this Contract Manual, these Bidding Instructions, or the Agreement constitutes a debt or direct or indirect multiple fiscal year financial obligation of the City.

**6.0 INSURANCE REQUIREMENTS** - The Contractor agrees to procure and maintain, at its own cost, the policies of insurance set forth in the Agreement. A certificate of insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the Owner prior to commencement of any work under the Agreement. The Owner shall have the right to request and obtain copies of any insurance policies required hereunder. The certificate shall identify the Agreement and shall provide that the coverage afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior to written notice has been given to the Owner. The City of Louisville shall be listed as additional insured by the Contractor on each certificate. The completed certificate of insurance shall be sent to: **City Services Facility, Attn: Dean Johnson, 739 S. 104th Street, Louisville, CO 80027**.

6.1 Failure on the part of the Contractor to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which the City of Louisville may immediately terminate this contract, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City of Louisville shall be repaid by Contractor to the City of Louisville upon demand, or the City of Louisville may offset the cost of the premiums against any monies due to Contractor from the City of Louisville.

## 7.0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in the Contract Manual and location maps. Contractor shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the City.

## 8.0 SUBCONTRACTORS

Contractor may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Contractor will submit any proposed subcontractor and the description of its services to the City for approval. The City will not work directly with subcontractors.

## 9.0 ASSIGNMENT

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due to or which become due hereunder without the Owner's prior written consent.

## 10.0 EQUIPMENT

Contractor shall furnish, according to the requirements of the Agreement, all equipment and tools required to perform the work.

## 11.0 SUPPLIES

The contractor shall furnish all supplies necessary according to the requirements of the Agreement. All supplies including herbicides must be pre-approved by the Parks Superintendent prior to use.

## 12.0 INSPECTION

The Owner and its duly authorized representatives have the right of inspection to ascertain that the services were rendered meeting Agreement requirements.

The Contractor agrees to comply with all directions given by the Parks Superintendent pertaining to the work to be performed in relation to this agreement. He shall not be required to make exhaustive or continuous on-site inspections to check the work, nor shall he be responsible for the techniques or the safety precautions incidental thereto.

Whenever the Parks Superintendent considers it necessary or advisable to insure the proper carrying out of the intent of the Agreement, he shall have the authority to require the Contractor to stop the work, or to require special examination of the work.

## 13.0 COMPLIANCE WITH LAWS

Contractor shall be solely responsible for compliance with all applicable federal, state and local laws, including the ordinances, resolutions, rules, and regulations

of the City of Louisville; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

The Agreement shall be governed by the law of the place where the work is to be performed.

## 14.0 STORMWATER POLLUTION PREVENTION PLAN

The Contractor is required to be in compliance with CDPHE (Colorado Department of Public Health and Environment) Municipal Phase II Stormwater Permit.

Stormwater runoff flows directly to creeks and waters of the state without treatment. Allowing pollutants to directly or indirectly enter the storm sewer system is prohibited by federal, state and local regulations. Maintenance operations along public streets, roads, highways and waterways can cause stormwater pollution in numerous ways. For example, stormwater pollution can be caused by wastes generated by turf maintenance equipment, distribution of fertilizers and chemicals, fueling practices, and cleaning of the equipment used in maintenance operations, or inadequate cleanup of left-over or spilled products of waste. These pollutants can either enter storm drains directly or be transported by storm water runoff.

The Contractor shall take all measures necessary to prevent pollutants from entering storm drains or watercourses. For the purpose of eliminating stormwater pollution, the Contractor shall implement effective Best Management Practices (BMPs). BMPs include general housekeeping practices, appropriate scheduling of activities, operational practices, maintenance procedures and other measures to prevent the discharge of pollutants directly or indirectly to the storm drain system. These BMPs shall be maintained for the duration of the Contractor's work. The Contractor shall also be responsible for proper disposal of all waste materials, including wastes generated by the implementation of BMPs.

Contractor shall also be required to provide BMP training to all employees for the maintenance activities they will be performing. To include: Landscaping, Lawn and Vegetation Maintenance, Fueling, Material Storage, Loading and Unloading, Spill Response, Vehicle/Equipment Repair and Storage and Vehicle/Equipment Washing.

## 15.0 RIGHT TO TERMINATE

15.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

15.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the Services rendered to the date of termination, not to exceed a pro-rated daily rate, for the Services rendered to the date of termination, and upon such payment, all obligations of the City to the Contractor under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

**16.0 EQUAL OPPORTUNITY EMPLOYER** - Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, veteran status, or any other applicable status protected by state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status set forth in the preceding sentence. 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

16.1 Contractor shall be in compliance with the applicable provisions of the American with Disabilities Act as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

**17.0 MISCELLANEOUS**

17.1 Should the Contractor suffer injury or damage to its person or property because of any error, omission, or act of the Owner or of any of his employees or agents or others for whose acts he is legally liable, claim shall be made in writing to the Owner within fifteen (15) days of the first observance of such injury or damage.

17.2 The contract is not intended to create any right in or for the public or any member thereof, any subcontractor or supplier, or any other third party, or to authorize anyone not a party to the contract to maintain a suit to enforce its terms. The duties, obligations, and responsibilities of the parties to the contract, with respect to third parties, shall remain as imposed by law.

# Section 3

# Bid Proposal

## BIDDER'S PROPOSAL

Place: _____

Date: _____

Contractor Name: _____

Contractor Address: _____

Contractor Phone: _____

Contractor Email: _____

1. In compliance with your invitation for bids dated _____ and subject to all conditions thereof, the undersigned: _____ (company name) a Corporation in the State of _____ consisting of (partnership) (limited partnership) (company), or _____ , an individual trading as: _____ of the City _____ State of _____ hereby proposes to furnish and do everything required by the Agreement to which this refers to the scope of services at the prices shown for each bid line on the following Bid Schedule.

2. The undersigned bidder does hereby declare and stipulate that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same work, and that it is made in pursuance of and subject to Bidders, the Agreement, and the specifications pertaining to the work to be done, all of which have been examined by the undersigned.

3. The undersigned bidder agrees to execute the Agreement within ten (10) calendar days from the date when the written notice of the award of the contract is delivered to him at the address given on this proposal.

4. The undersigned bidder agrees to abide by the requirements of Executive Order No. 11246, as amended.

5. All the various phases of work enumerated in the RFP documents, Agreement, and specifications with their individual jobs and overhead, whether specifically mentioned, included by implication or appurtenant thereto, are to be performed by the contractor under one of the items listed in the Bid Schedule, irrespective of whether it is named in said list.

6. Payment for work performed will be in accordance with the Bid Schedule.

The proposal includes subcontracting certain services from time to time to subcontractors as listed below:

**SUBCONTRACTORS**

| NAME | ADDRESS AND EMAIL |
|---|---|
| | |
| | |
| | |
| | |
| | |

_____

*Contractor*

By: _____

Title: _____

Date: _____

Address: _____

_____

_____

## BID SCHEDULE

*(Quantity figures were derived from the aerial photos used in the Location Maps)*

| ITEM | DESCRIPTION | UNIT | QUANTITY | UNIT PRICE | QUANTITY PRICE | EXTENSION | TOTAL PRICE |
|---|---|---|---|---|---|---|---|
| 1 | **Bluegrass Areas** (*Weekly maintenance, includes weed control)* | **SF** | **2,291,096** | **$** | **$** | **28 Times/Cycles** | **$** |
| 2 | **Weed Control Areas** *(Weekly Maintenance)* | **SF** | **383,254** | **$** | **$** | **28 Times/Cycles** | **$** |
| 3 | **Native Perimeter Mowing** (*Bi-monthly maintenance includes weed control)* | **LF** | **57,768** | **$** | **$** | **14 Times/Cycles** | **$** |
| 4 | **Native Mowing** *(Bi-monthly maintenance, includes weed control)* | **SF** | **555,201** | **$** | **$** | **14 Times/Cycles** | **$** |
| 5 | **3X Perimeter Mowing (Right-of-Way Mowing)** *(Dillon Rd + 96 St. – mow to fence or ditch line)* | **LF** | **37,659** | **$** | **$** | **3 Times/Cycles** | **$** |
| 6 | **Cemetery Bluegrass** *(Weekly maintenance Includes weed control and mowing)* | **SF** | **362,539** | **$** | **$** | **28 Times/Cycles** | **$** |
| | | | | | | **TOTAL BID** | **$** |

TOTAL BID IN WORDS:

_____

_____

_____

_____

RESPECTFULLY SUBMITTED:

By: _____

Title: _____

Date: _____

Address: _____

License Number (if Applicable): _____

(Seal – if bid is by corporation)

Attest: _____

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of: _____

County of: _____

## NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____ )

_____ )

County of _____ )

_____ , being first duly sworn, deposes and says that:

(1) He is _____ of _____

(title) _____

the Bidder that has submitted the attached Bid.

(2) He is fully informed respecting the preparation and content of the attached Bid and of all pertinent circumstances respecting such Bid.

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, Owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference in the attached Bid or any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Owner or any other person interested in the proposed contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, Owners, employees, or parties in interest, including this affiant.

Signed _____

Title _____

Subscribed and sworn to before me this _____ day of _____ 20 _____

Notary Public

My commission expires: _____

**BID BOND**

KNOW ALL MEN BY THESE PRESENT, That we, the undersigned:

_____ as Principal,

and _____ as Surety, are hereby held and firmly bond unto

_____ as OWNER in the penal sum of

_____

for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this _____ day of _____ 20 _____

The condition of the above obligation is such that whereas the Principal has submitted to _____

a certain BID attached hereto and hereby made a part hereof to enter into a Contract in writing, for the **2020 - 2024 Landscape Maintenance Services Project**.

NOW THEREFORE,

a) If said BID shall be rejected, or

b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated. The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS, WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

(Principal)

Surety

By: _____

***IMPORTANT*** *- Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.*

# Section 4

# Contract Documents

**INDEPENDENT CONTRACTOR AGREEMENT**
**BY AND BETWEEN THE CITY OF LOUISVILLE**
**AND _____**
**FOR _____ SERVICES**

## 1.0 PARTIES

This INDEPENDENT CONTRACTOR AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 20__ (the "Effective Date"), by and between the **City of Louisville**, a Colorado home rule municipal corporation, hereinafter referred to as the "City", and _____, [Name of Contractor] a _____[State of Formation and Type of Entity], hereinafter referred to as the "Contractor".

## 2.0 RECITALS AND PURPOSE

2.1 The City desires to engage the Contractor for the purpose of providing _____ services as further set forth in the Contractor's Scope of Services (which services are hereinafter referred to as the "Services").

2.2 The Contractor represents that it has the special expertise, qualifications and background necessary to complete the Services.

## 3.0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference. Contractor shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the City.

## 4.0 COMPENSATION

4.1 The City shall pay the Contractor for Services under this Agreement a total not to exceed the amounts set forth in Exhibit "A" attached hereto and incorporated herein by this reference. For Services compensated at hourly or per unit rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in Exhibit A. The City shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.), unless such expenses are (1) clearly set forth in the Scope of Services, and (2) necessary for performance of the Services ("Pre-Approved Expenses"). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside

Contractor fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No City employee has the authority to bind the City with regard to any payment for any Services which exceeds the amount payable under the terms of this Agreement.

4.2 The Contractor shall submit monthly an invoice to the City for Services rendered and a detailed expense report for Pre-Approved Expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the City. The Contractor shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

## 5.0 PROJECT REPRESENTATION

5.1 The City designates _____ as the responsible City staff to provide direction to the Contractor during the conduct of the Services. The Contractor shall comply with the directions given by _____ and such person's designees.

5.2 The Contractor designates _____ as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly _____, and such replacement require the City or the Contractor to undertake additional reevaluations, coordination, orientations, etc., the Contractor shall be fully responsible for all such additional costs and services.

## 6.0 TERM

6.1 The term of this Agreement shall be from the Effective Date to _____, 20___, unless sooner terminated pursuant to Section 13, below. The Contractor's Services under this Agreement shall commence on [(the Effective Date) or (on another date desired by the City, after the Effective Date)] and Contractor shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.

6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the City under this Agreement are subject to annual budgeting and appropriation by the Louisville City Council, in its sole discretion. Notwithstanding anything in this

Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

## 7.0 INSURANCE

7.1 The Contractor agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of Services hereunder. The required coverages are:

7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.

7.1.2 General Liability insurance with minimum combined single limits of $1,000,000 each occurrence and $2,000,000 aggregate. The policy shall include the City of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the City of Louisville, its officers and its employees, and shall contain a severability of interests provision.

7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than $400,000 per person in any one occurrence and $1,000,000 for two or more persons in any one occurrence, and auto property damage insurance of at least $50,000 per occurrence, with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the Services. If the Contractor has no owned automobiles, the requirements of this paragraph shall be met by each officer or employee of the Contractor providing services to the City of Louisville under this contract.

7.2 The Contractor's general liability insurance and automobile liability and physical damage insurance shall be endorsed to include the City, and its elected and appointed officers and employees, as additional insureds, unless the City in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Contractor. Such policies shall contain a severability of interests provision. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

7.3 Certificates of insurance shall be provided by the Contractor as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. No

required coverage shall be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

7.4 Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

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

## 8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the Services hereunder, if such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Contractor shall further bear all other costs and expenses incurred by the City or Contractor and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Contractor. The City shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

## 9.0 QUALITY OF WORK

Contractor's Services shall be performed in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the City.

## 10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Contractor is an independent contractor and not the agent, employee or servant of the City, and that:

**10.1 CONTRACTOR SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSE RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, PAYMENT OF STATE, FEDERAL AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKERS' COMPENSATION AND SELF-EMPLOYMENT TAXES. NO STATE, FEDERAL OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE CITY.**

**10.2 CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS EXCEPT AS MAY BE PROVIDED BY THE INDEPENDENT CONTRACTOR NOR TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THE INDEPENDENT CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY.**

**10.3** Contractor does not have the authority to act for the City, or to bind the City in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the City.

**10.4** Contractor has and retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder.

**10.6** The City will not provide training or instruction to Contractor or any of its employees regarding the performance of the Services hereunder.

**10.7** Neither the Contractor nor any of its officers or employees will receive benefits of any type from the City.

**10.8** Contractor represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.

**10.9** All Services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.

**10.10** Contractor will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

## 11.0 ASSIGNMENT

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder without the City's prior written consent.

## 12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

## 13.0 TERMINATION

13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

13.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the Services rendered to the date of termination, not to exceed a pro-rated daily rate, for the Services rendered to the date of termination, and upon such payment, all obligations of the City to the Contractor under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

## 14.0 INSPECTION AND AUDIT

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

## 15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the City in performance of the Services are and shall remain the sole and exclusive property of the City. All such materials shall be promptly provided to the City upon request therefor and at the time of termination of this Agreement, without further charge or expense to the City and in hardcopy or an electronic format acceptable to the City, or both, as the City shall determine. Contractor shall not provide copies of any such material to any other party without the prior written consent of the City. Contractor shall not use or disclose confidential information of the City for purposes unrelated to performance of this Agreement without the City's written consent.

## 16.0 ENFORCEMENT

16.1 In the event that suit is brought upon this Agreement to enforce its terms, the parties shall each bear and be responsible for their own attorneys' fees and court costs.

16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the courts of Boulder County or the federal district court for the District of Colorado, and in no other court. [If out of state contractor: Contractor hereby waives its right to challenge the personal jurisdiction of the courts of Boulder County and the federal district court for the District of Colorado over it.] Colorado law shall apply to the construction and enforcement of this Agreement.

## 17.0 COMPLIANCE WITH LAWS; WORK BY ILLEGAL ALIENS PROHIBITED

17.1 Contractor shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City; for performance of the Services in accordance with the Specific Conditions, Technical Specifications, and Best Practice Guidelines set forth in Exhibits "C", "D" and "E"; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

17.2 Exhibit B, the "City of Louisville Public Services Contract Addendum-Prohibition Against Employing Illegal Aliens", is attached hereto and incorporated herein by reference. There is also attached hereto a copy of Contractor's Pre-Contract Certification which Contractor has executed and delivered to the City prior to Contractor's execution of this Agreement.

## 18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

## 19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by email transmission, addressed to the party for whom it is intended at the following address:

If to the City:

City Services Facility
Attn: Dean Johnson, Parks Superintendent
739 S. 104th Street
Louisville, CO 80027
e-mail: deanj@louisvilleco.gov

If to the Contractor:

_____

_____

_____

_____

Except for notices by email transmission, any notice required or permitted under this Agreement shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail. Notices by email transmission shall be effective on transmission, so long as no message of error or non-receipt is received by the party giving notice. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

**20.0 EQUAL OPPORTUNITY EMPLOYER**

20.1 Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, veteran status, or any other applicable status protected by state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status set forth in the preceding sentence. 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

20.2 Contractor shall be in compliance with the applicable provisions of the American with Disabilities Act as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

## 21.0 NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than City or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

## 22.0 SUBCONTRACTORS

Contractor may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Contractor will submit any proposed subcontractor and the description of its services to the City for approval. The City will not work directly with subcontractors.

## 23.0 AUTHORITY TO BIND

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

In witness whereof, the parties have executed this Agreement to be effective as of the day and year first above written.

CITY OF LOUISVILLE

By: _____
Mayor

Attest: _____
City Clerk

CONTRACTOR:
_____

By: _____

Title: _____

# Section 5

# Exhibits B, C, D and E

# EXHIBIT B

## City of Louisville Public Services Contract Addendum
## Prohibition Against Employing Illegal Aliens

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

a. Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, City may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City.

**Pre-Contract Certification in Compliance with C.R.S. Section 8-17.5-102(1)**

The undersigned hereby certifies as follows:

That at the time of providing this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform under the public contract for services.

Proposer:

_____

By: _____

Title: _____

Date: _____

# EXHIBIT C

## SPECIAL CONDITIONS

The goal of the City of Louisville is to maintain a quality aesthetic appearance of the parks and native areas while complying with local, county and state laws, ordinances, codes, rules and regulations. Specifications in this section are not all-inclusive and should be considered along with requirements outlined in other sections of the Contract Manual.

The Landscape Maintenance Services Agreement is to include but not limited to the following components:

- Mowing, trimming, edging, and litter control.
- Weed control in shrub beds, trees wells, landscape areas, rock and wood mulch, sidewalks, medians, and along fence lines.

**1.0 Commencing Services**

Landscape maintenance services will commence in April and conclude in October for each season. The Parks Superintendent will determine the specific start and end date. The Contractor will then provide the Parks Superintendent with a mowing schedule prior to commencing services.

**2.0 Hours of Operation**

Hours of operation for maintenance shall normally be between 7:00 a.m. and 5:00 p.m., Monday through Friday. All maintenance must be scheduled and performed so as not to interfere with the general public. No maintenance operations will occur on weekends (Saturday or Sunday) or legal Holidays unless it is of an emergency nature and approved by the Parks Superintendent.

**3.0 Permits**

The Contractor will be required to secure a permit in order to work within the rights-of-ways throughout the City. The permit can be obtained free of charge through the City of Louisville's Public Works Department. The Contractor shall bear all expense of maintaining traffic control over any section of road affected by the work to be done under this contract.

Work relative to agreed-upon services shall not commence until proof of all necessary licenses and/or permits has been accepted by the City.

**4.0 Supervision**

The Contractor shall supervise and direct all operations competently and efficiently, devoting such time and attention as necessary, and applying such skills and expertise as may be necessary to perform the agreed-upon services.

Regular communication between the Contractor and the Parks Superintendent is a requirement of this contract.

## 5.0 Liability

The Contractor assumes entire responsibility and liability for all damages and injury to all persons, whether employees or otherwise, and to all property, resulting from the labor, equipment or material occurring in connection with the performance of this contract.

Any facility or property, including adjacent private property damaged as a result of the landscape maintenance operation at any of the maintenance sites will be repaired or replaced by the Contractor at the Contractor's expense. Specifications include but are not limited to the following:

Contractor will repair all damage to irrigation systems made by the Contractor's staff. Contractor shall tag any sprinkler head damaged during maintenance operations. The damaged sprinkler head shall be repaired or replaced within 24 hours. The Contractor shall notify the Parks Superintendent of any repair for inspection of work. Under no circumstances shall the Contractor tamper with any irrigation system, valves and controllers unless there is an emergency (i.e. leak(s) which threaten property or safety). If this occurs, the Contractor will notify the Parks Superintendent immediately.

A fine for mechanical damage to trees will be a minimum of $100.00 per event or the replacement value of the tree (if deemed necessary). Trees that have mulch around the base are to remain mulched. Should the Contractor displace the mulch, it is the responsibility of the Contractor to replace the mulch.

The Contractor will repair any and all damage to turf that may occur.

## 6.0 Safety

All appropriate safety equipment and dress will be used by all workers, at all times. A class 2 safety vest or better is recommended while working on medians and rights-of-way.

## 7.0 Pesticide Application Specifications

The Contractor will be required to adhere to General Pesticide Application Specifications:

7.1 All pesticide applications must be performed under the direction of a licensed applicator by the State of Colorado Department of Agriculture and in accordance with the Colorado Pesticide Applicators' Act.

7.2 It is the Contractor's responsibility to identify and properly notify any person listed on the Registry of Pesticide Sensitive Person whose **property abuts that on which the application is scheduled before any pesticide application is performed.**

7.3 The Contractor assumes full and complete responsibility for any undesirable plant kill or plant damage on the maintenance areas or adjacent property and for any adverse effects caused by pesticide applications at no cost to the Owner.

7.4 All pesticides recommended for use and all application of pesticides must be reported to the Parks Superintendent.

7.5 All pesticide applications require the submittal of a Pesticide Application Sheet, completed in its entirety, to the Parks Superintendent within forty-eight (48) hours of

the application.

7.6 The contractor must adhere to best management practices in the application of herbicides and fertilizers. Refer to Exhibit E for guidelines.

## 8.0 Method of Measurement

The unit of measurement for mowing operations and weed control will be per cycle. A cycle consists of one completed mowing and/or weed control of the area described in the bid proposal and location maps.

## 9.0 Location Maps

The location maps and quantity information included in the bid schedule are to be construed as the City of Louisville's best effort with the intent to present the bidder with the most reliably data currently available. Minor site adjustments may be necessary due to the extensive maintenance details which cannot easily be depicted on the location maps.

# EXHIBIT D

## TECHNICAL SPECIFICATIONS

### SECTION 1 - General

The Contractor shall provide regular landscape maintenance services for the locations described and awarded in the bid schedule and locations maps as set forth in these technical specifications based on **unit pricing as set forth in the Bidder's Bid Proposal.**

### SECTION 2 – Bluegrass Areas (Irrigated Turf, Which Includes: Medians, Parks, Cemetery, Trails, etc.)

**1.0 Mowing and Trimming**

1.1 Turf areas will be mowed and trimmed weekly. Turf areas will be mowed and trimmed between April and October. All mowing is to be completed Monday through Friday.

1.2 All mowing will be done to a height of three (3") inches during each week of the contract period. The City of Louisville reserves the right to change the mowing height as deemed necessary due to drought or other present conditions. Turf shall be cut and trimmed at least once every seven (7) days, or as required to maintain an even, well-groomed appearance. A mowing schedule must be submitted prior to the start of the mowing season. Variations to the specific mowing schedule must be approved by the City of Louisville's Parks Superintendent. If the mowing schedule is interrupted by adverse conditions, including but not limited to rain, the site will be mowed two times the following week to maintain a reasonable turf height.

1.3 Pattern mowing is required at all sites. Directions of patterns will be approved by the Parks Superintendent.

1.4 The Contractor is encouraged to use mulching mowers, cutting clippings into small pieces that sift down into the lawn. Excessive clippings that accumulate on the turf will be removed by the Contractor. Sweeping of all turf areas is not necessary, but piles and swaths of excessive clippings must be removed and disposed of off-site. The Parks Superintendent will determine when clippings are excessive.

1.5 All mowing equipment shall be equipped with sharp blades so as not to tear, but cleanly cut the blade of grass.

1.6 Rotary walk-behind or riding mowers are required for mowing. Mowers and trimmers must be operated in a safe and orderly manner. All mowing and trimming equipment must be in good working condition (including all safety features). All equipment shall be subject to approval by the City of Louisville's park staff.

1.7 Turf shall be cut in a professional manner so as not to scalp turf or leave uncut areas.

Care shall be taken to prevent discharge of grass clippings onto any paved surfaces such as streets, sidewalks, driveways, or adjacent properties. Any material so discharged shall be removed immediately. If the Contractor fails to clean up debris, the Contractor will be charged for all cleanup costs involved.

1.8 The Contractor shall remove all trash and litter from the entire site prior to initiating any mowing of the turf area. Trash and litter shall be hauled from site.

1.9 All trimming shall be done using a string trimmer. Trimming includes trees, plants, shrubs, utility poles, light standards, sign posts, delineators, guardrails, fences or other appurtenances which are part of the park.

1.10 All trimming must be accomplished concurrently with the mowing operation and be done at the same height as the adjacent turf (three inches).

1.11 Special care shall be taken while trimming so as not to inflict damage to the bark of the trees, fence posts or boards, signs, etc.

**2.0 <u>Edging</u>**

2.1 All sidewalks, curbs, walkways and other hard surfaces will be mechanically edged using a metal blade once every twenty-eight (28) days. In addition, curb lines shall be edged as necessary to maintain a well-groomed appearance. All materials dislodged by edging will be removed from the site.

**3.0 <u>Weed Control</u>**

3.1 For purposes of this document, a weed is defined by any unwanted plant material as determined by the Parks Superintendent.

3.2 Suckers are classified as weeds. Adventitious sucker growth from trees in tree wells shall be removed weekly – using pruning shears – pruning shears will be sterilized with isopropyl alcohol or an approved disinfectant between cuts. Chemically treating suckers is not allowed.

3.3 Weeds shall be removed or killed as the weeds emerge in the following areas: landscaped areas, shrub beds, mulched areas (wood and rock), medians (includes crack between median and street), and sidewalks. Weed control in irrigated and non-irrigated turf and flowerbeds is excluded from this contract.

Weeds shall be removed if they are larger than two (2”) inches in height or diameter and disposed of off-site.

3.4 <u>For chemically controlling weeds, only a post-emergent non-selective herbicide shall be used. The Parks Superintendent must approve all herbicides prior to use. Pre-emergent and selective herbicide use is not allowed nor is it a part of the landscape maintenance contract.</u>

3.5 The Contractor will spray all mulched tree wells a minimum of three (3) times during the contract period.

3.6 The Contractor will provide to the Parks Superintendent the list of certified pesticide applicators that will be a part of this contract. The Parks Superintendent will be notified prior to any and all herbicide applications.

3.7 The Contractor shall take precautions to keep persons away from herbicide-treated areas until the material is fully dry and the treated area is safe for entry, according to the label. Herbicide applications shall be made at times when citizen presence is minimal.

3.8 Pesticide flagging will be placed prior to an application which will include the company name, phone number, time and date of application, and chemical and rate applied on each flag. Flags shall be placed at all entrances and other highly visible areas throughout the site and will be removed as soon as the area is safe for entry, according to the label.

3.9 All chemicals shall be used in accordance with label directions and the manufactures recommended handling methods. All governmental and industry recommendations and regulations apply.

3.10 The cost for all herbicide applications is included in the price for weed control.

3.11 The Contractor will adhere to the BMPs set forth in Exhibit E.

**4.0 Litter**

4.1 All hand litter and other debris shall be picked up in accordance to the mowing frequency. Litter and debris shall be picked up prior to mowing and hauled from the site. Trash shall also be removed from shrub beds, landscaped areas, mulched areas (wood and rock), and sidewalks.

## SECTION 3 – Native Areas (Non-Irrigated Turf and Perimeter Strips)

**1.0 Mowing and Trimming**

1.1 Turf areas will be mowed and trimmed between April and October. All mowing is to be completed Monday through Friday.

1.2 All mowing will be done to a minimum height of three (3”) inches and not to exceed six (6”) inches. The City of Louisville reserves the right to change the mowing height as deemed necessary due to drought or other present conditions. A mowing schedule must be submitted prior to the start of the mowing season. Variations to the specific mowing schedule must be approved by the City of Louisville’s Parks Superintendent. If the mowing schedule is interrupted by adverse conditions, including but not limited to rain, the site will be mowed two times the following week to maintain a reasonable turf height.

1.3 Perimeter mowing or buffer strips will be mowed at a width not to exceed six (6’) feet. Buffer strips will be mowed out along both sides of the sidewalk and in most cases completely mowed from sidewalk to street. For perimeter mowing along Dillon Road and 96 Street, mowing is required from street to fence or ditch line. For

all areas, the City of Louisville reserves the right to determine and/or change the width requirement. Variations to the width requirement must be approved by the Parks Superintendent. Perimeter strips will be mowed every fourteen days unless otherwise specified on the location maps.

1.4 Pattern mowing is required at all sites. Directions of patterns will be approved by the Parks Superintendent.

1.5 The Contractor is encouraged to use mulching mowers, cutting clippings into small pieces that sift down into the lawn. Excessive clippings that accumulate on the turf will be removed by the Contractor. Sweeping of all turf areas is not necessary, but piles and swaths of excessive clippings must be removed and disposed of off-site. The Parks Superintendent will determine when clippings are excessive.

1.6 Rotary walk-behind or riding mowers may be used for mowing non-irrigated turf. Mowers and trimmers must be operated in a safe and orderly manner. All mowing and trimming equipment must be in good working condition (including all safety features). All equipment shall be subject to approval by the City of Louisville's park staff.

1.7 Turf shall be cut in a professional manner so as not to scalp turf or leave uncut areas.

Care shall be taken to prevent discharge of grass clippings onto any paved surfaces such as streets, sidewalks, driveways, or adjacent properties. Any material so discharged shall be removed immediately. If the Contractor fails to clean up debris, the Contractor will be charged for all cleanup costs involved.

1.8 The Contractor shall remove all trash and litter from the entire site prior to initiating any mowing of the turf area. Trash and litter shall be hauled from site.

1.9 All trimming shall be done using a string trimmer. Trimming includes trees, plants, shrubs, utility poles, light standards, sign posts, delineators, guardrails, fences or other appurtenances which are part of the park

1.10 All trimming must be accomplished concurrently with the mowing operation and be done at the same height as the adjacent turf.

1.11 Special care shall be taken while trimming so as not to inflict damage to the bark of the trees, fence posts or boards, signs, etc.

**2.0 <u>Edging</u>**

2.1 All sidewalks, curbs, walkways and other hard surfaces will be mechanically edged using a metal blade four (4) times during the season. In addition, curb lines shall be edged as necessary to maintain a well-groomed appearance. All materials dislodged by edging will be removed from the site.

## 3.0 Weed Control

3.1. For purposes of this document, a weed is defined by any unwanted plant material as determined by the Parks Superintendent.

3.2. Suckers are classified as weeds. Adventitious sucker growth from trees in tree wells shall be removed weekly – using pruning shears – pruning shears will be sterilized with isopropyl alcohol or an approved disinfectant between cuts. Chemically treating suckers is not allowed.

3.3 Weeds shall be removed or killed as the weeds emerge in the following areas: landscaped areas, shrub beds, mulched areas (wood and rock), medians (includes crack between median and street), and sidewalks. Weed control in irrigated and non-irrigated turf and flowerbeds is excluded from this contract.

Weeds shall be removed if they are larger than two (2") inches in height or diameter and disposed of off-site.

3.4 For chemically controlling weeds, only a post-emergent non-selective herbicide shall be used. The Parks Superintendent must approve all herbicides prior to use. Pre-emergent and selective herbicide use is not allowed nor is it a part of the landscape maintenance contract.

3.5. The Contractor will spray all mulched tree wells a minimum of three (3) times during the contract period.

3.6. The Contractor will provide to the Parks Superintendent the list of certified pesticide applicators that will be a part of this contract. The Parks Superintendent will be notified prior to any and all herbicide applications.

3.7. The Contractor shall take precautions to keep persons away from herbicide-treated areas until the material is fully dry and the treated area is safe for entry, according to the label. Herbicide applications shall be made at times when citizen presence is minimal.

3.8. Pesticide flagging will be placed prior to an application which will include the company name, phone number, time and date of application, and chemical and rate applied on each flag. Flags shall be placed at all entrances and other highly visible areas throughout the site and will be removed as soon as the area is safe for entry, according to the label.

3.9. All chemicals shall be used in accordance with label directions and the manufactures recommended handling methods. All governmental and industry recommendations and regulations apply.

3.10. The cost for all herbicide applications is included in the price for weed control.

3.11. The Contractor will adhere to the BMPs set forth in Exhibit E.

## 4.0 Litter

4.1 All hand litter and other debris shall be picked up in accordance to the mowing frequency. Litter and debris shall be picked up prior to mowing and hauled from the site. Trash shall also be removed from shrub beds, landscaped areas, mulched areas (wood and rock), and sidewalks.

## SECTION 4 – Weed Control Only Areas (No Mow Areas)

## 1.0 Weed Control

1.1 For purposes of this document, a weed is defined by any unwanted plant material as determined by the Parks Superintendent.

1.2 Suckers are classified as weeds. Adventitious sucker growth from trees in tree wells shall be removed weekly – using pruning shears – pruning shears will be sterilized with isopropyl alcohol or an approved disinfectant between cuts. Chemically treating suckers is not allowed.

1.3 Weeds shall be removed or killed as the weeds emerge in the following areas: landscaped areas, shrub beds, mulched areas (wood and rock), medians (includes crack between median and street), and sidewalks. Weed control in irrigated and non-irrigated turf and flowerbeds is excluded from this contract.

Weeds shall be removed if they are larger than two (2”) inches in height or diameter and disposed of off-site.

1.4 For chemically controlling weeds, only a post-emergent non-selective herbicide shall be used. The Parks Superintendent must approve all herbicides prior to use. Pre-emergent and selective herbicide use is not allowed nor is it a part of the landscape maintenance contract.

1.5 The Contractor will spray all mulched tree wells a minimum of three (3) times during the contract period.

1.6 The Contractor will provide to the Parks Superintendent the list of certified pesticide applicators that will be a part of this contract. The Parks Superintendent will be notified prior to any and all herbicide applications.

1.7 The Contractor shall take precautions to keep persons away from herbicide-treated areas until the material is fully dry and the treated area is safe for entry, according to the label. Herbicide applications shall be made at times when citizen presence is minimal.

1.8 Pesticide flagging will be placed prior to an application which will include the company name, phone number, time and date of application, and chemical and rate applied on each flag. Flags shall be placed at all entrances and other highly visible areas throughout the site and will be removed as soon as the area is safe for entry, according to the label.

1.9 All chemicals shall be used in accordance with label directions and the manufactures recommended handling methods. All governmental and industry recommendations and regulations apply.

1.10 The cost for all herbicide applications is included in the price for weed control.

1.11 The Contractor will adhere to the BMPs set forth in Exhibit E.

**4.0 <u>Litter</u>**

4.1 All hand litter and other debris shall be picked up in accordance to the mowing frequency. Litter and debris shall be picked up prior to mowing and hauled from the site. Trash shall also be removed from shrub beds, landscaped areas, mulched areas (wood and rock), and sidewalks.

# EXHIBIT E

Basic Practice Guidelines for Best Management Practices within the City of Louisville for Pesticide and Fertilizer: Application, Storage, Handling and Disposal

1. Apply pesticides and herbicides according to the label – it's the law. Apply fertilizers according to the manufacturer's directions.

2. Apply pesticides and herbicides only when needed and use in a manner to minimize off-target effects.

3. Ensure chemical applicators receive thorough training and proper certification prior to chemical use. Individuals and companies hired to apply pesticides must be licensed in the appropriate categories by the Colorado Department of Agriculture.

4. Know characteristics of the application site, including soil type and depth to groundwater. Be aware of any drinking water wells down gradient of the operation.

5. Select pesticides and herbicides best suited to the characteristics of the target site and the particular pest or weed. Choose least toxic and less persistent sprays whenever possible based on comparison of labels and associated material safety data sheets (MSDSs).

6. Employ application techniques that increase efficiency and allow the lowest effective application rate. Carefully calibrate application equipment and follow all label instructions.

7. All mixing and loading operations must occur on an impervious surface.

8. To prevent possible backflow and contamination of a water supply, never submerge a water supply hose in a chemical tank or container. Provide proper backflow prevention devices as required.

9. Provide proper signage (flagging) when applying.

10. Following the directions and guidelines offered by the City of Louisville's' Integrated Weed Management Plan.

11. Consider spot treatment of pests rather than broadcast spraying when possible.

12. Time applications to minimize host plant damage and maximize pest control.

13. Do not apply pesticides during high temperature or windy conditions or immediately prior to heavy rainfall or irrigation.

14. Maintain records of all pesticides applied, including brand name, formulation, EPA registration number, amount and date applied, exact location of application and name, address and certification number of application. Pesticide application sheets must be given

to the Parks Superintendent for every application.

15. Properly handle and dispose of containers, rinse water and waste. Store pesticides in secure and covered areas.

16. Be familiar with existing local, state, and federal regulations on pesticide application, certification and weed control.

17. Keep chemical spill cleanup equipment, personal protective equipment and emergency phone numbers available when handling chemicals and their containers.

18. Properly manage chemical spills by cleaning them up as soon as possible, controlling actively spilling or leaking materials, containing the spilled material, collecting the spilled material and properly disposing of the material. Reporting a spill to the appropriate authority is required.

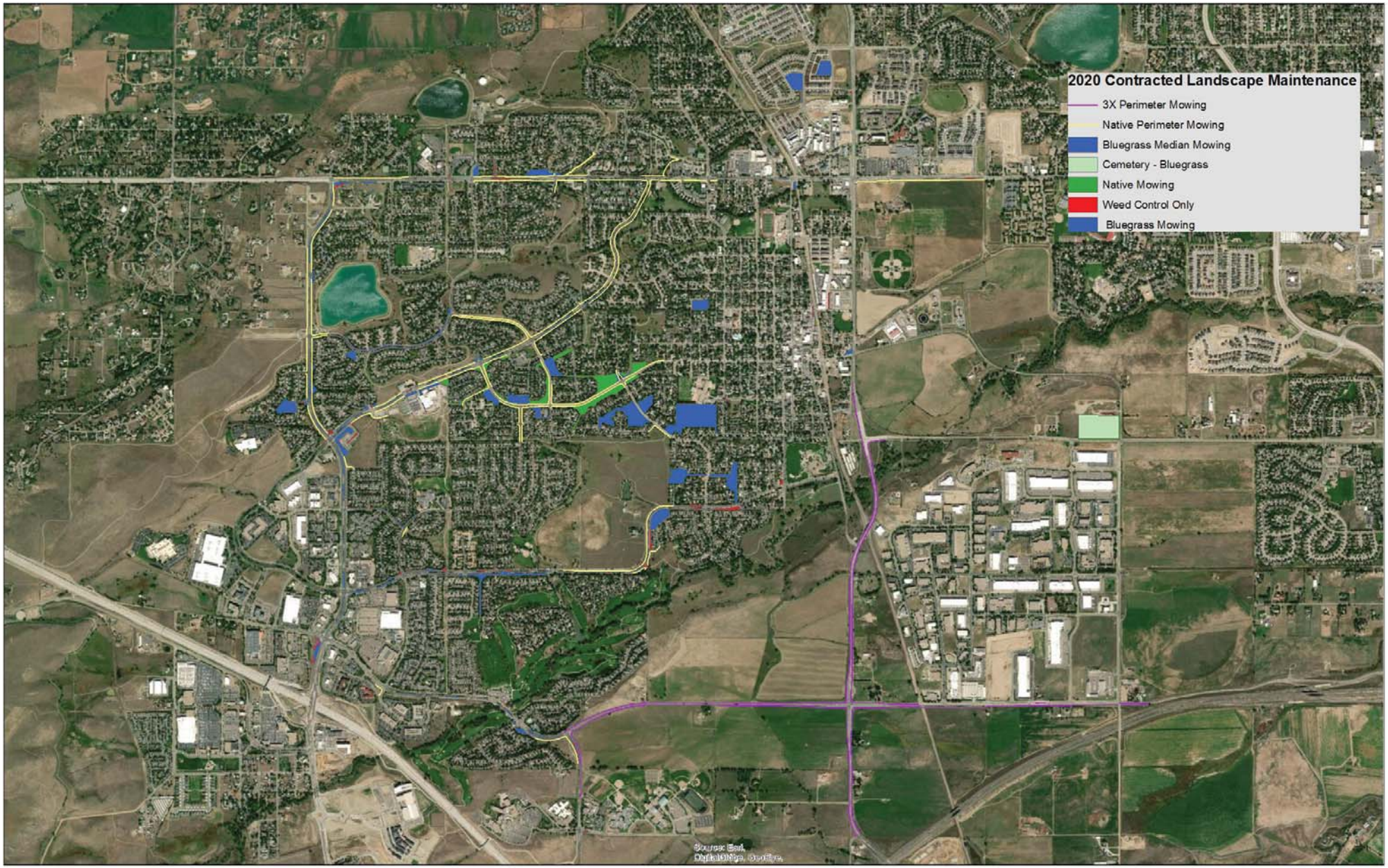
19. Follow label directions for disposal. This typically involves triple-rising containers, puncturing and crushing. All visible chemicals should be cleaned from the container prior to disposal.

Key Reference:

Green Industries of Colorado. (2008). *Green industry best management practices for the conservation and protection of water resources in Colorado: moving toward sustainability.* Retrieved December 1, 2008, from http://www.greenco.org

# Section 6

# Location Maps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Native Perimeter Mowing
Bluegrass Median Mowing
Cemetery - Bluegrass
Native Mowing
Weed Control Only
Bluegrass Mowing

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Bluegrass Median Mowing
Cemetery - Bluegrass
Native Mowing
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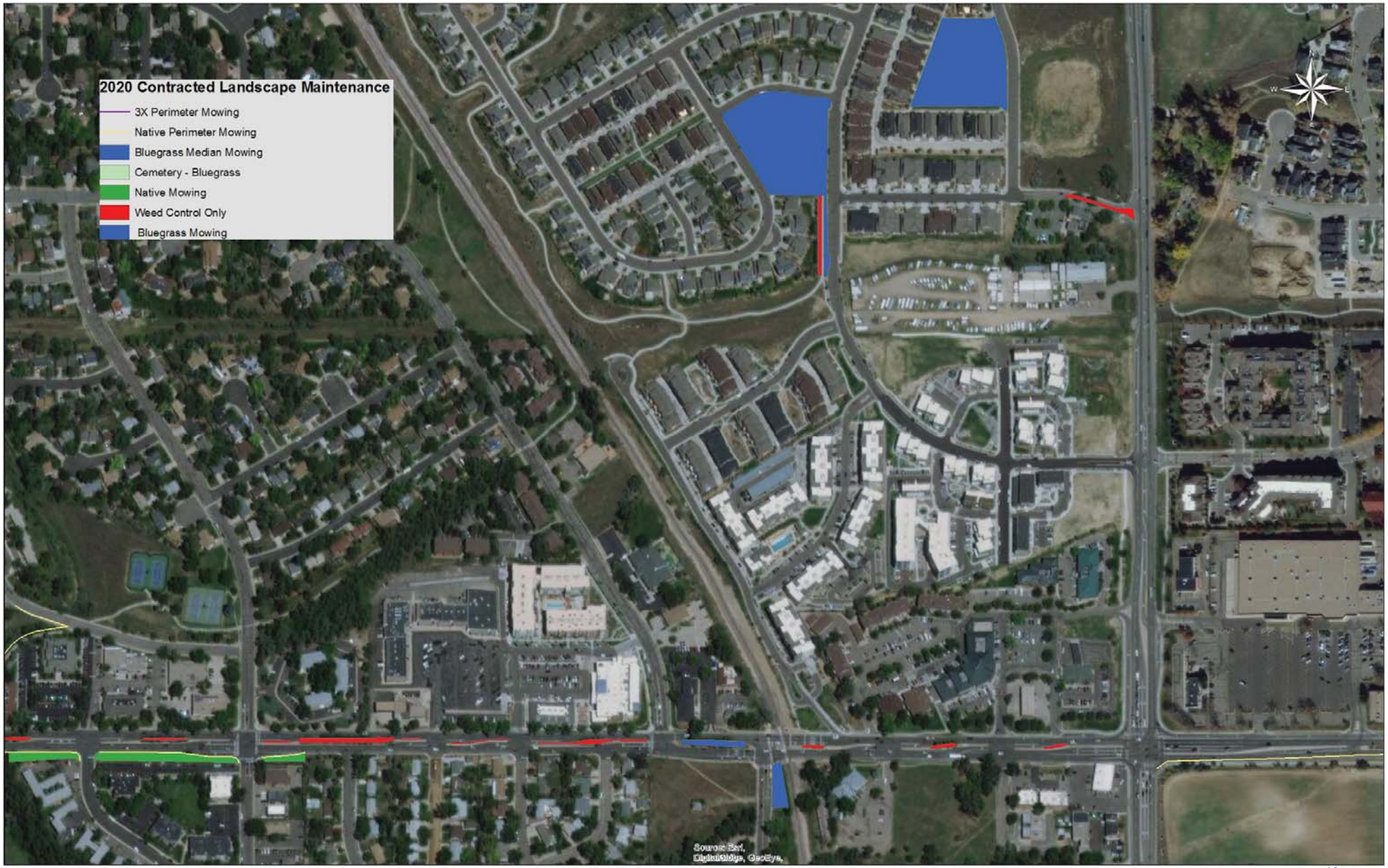
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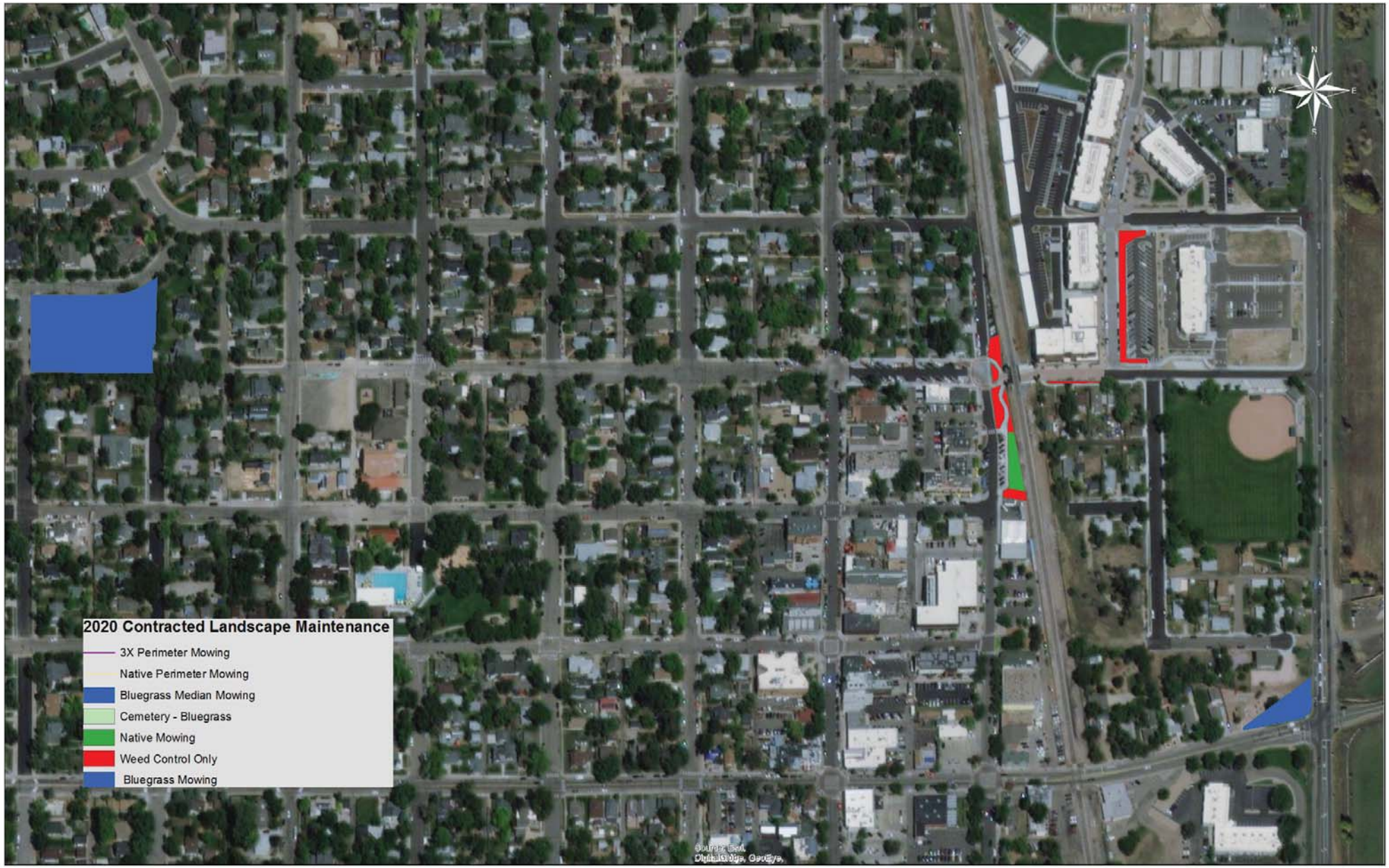
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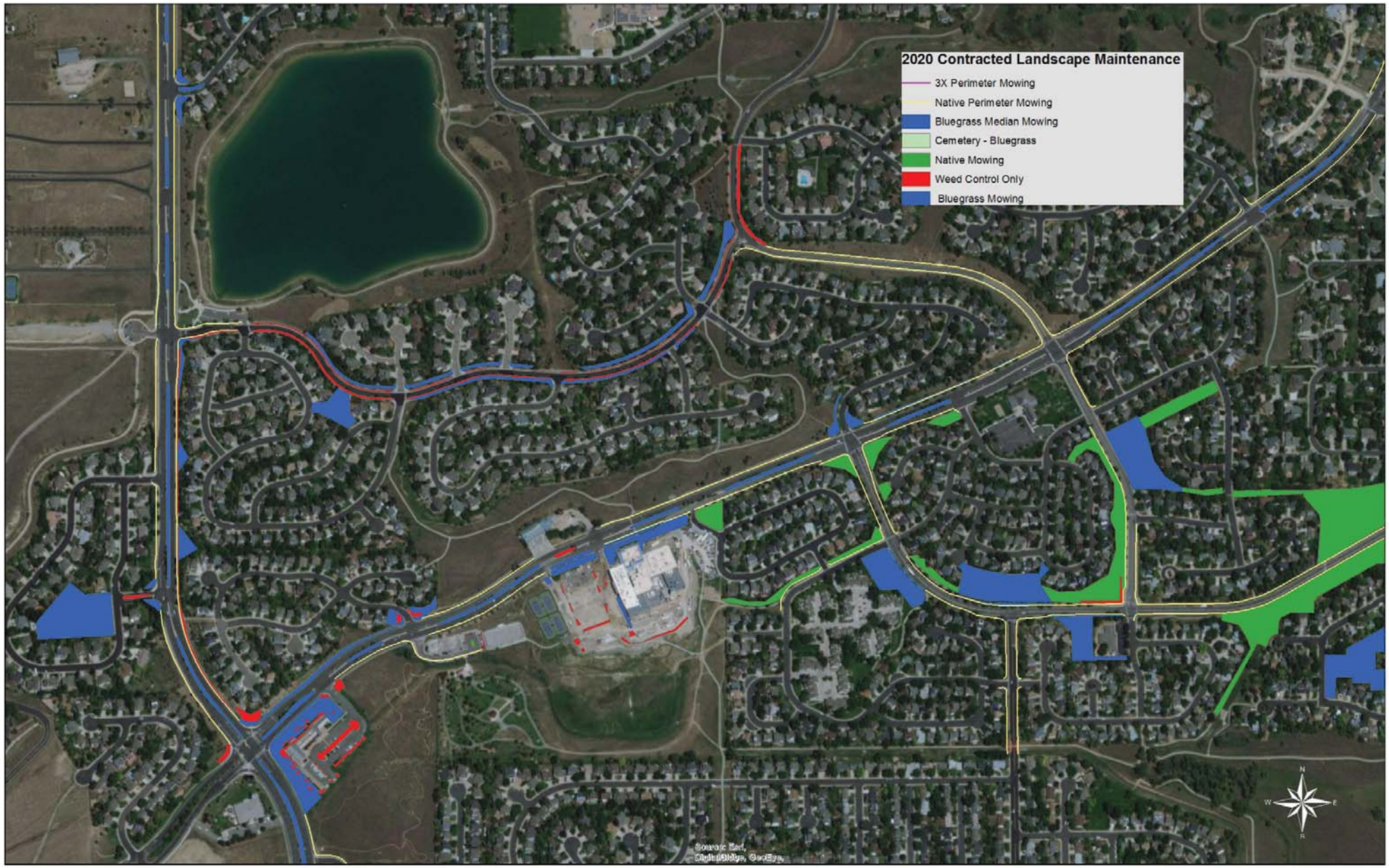
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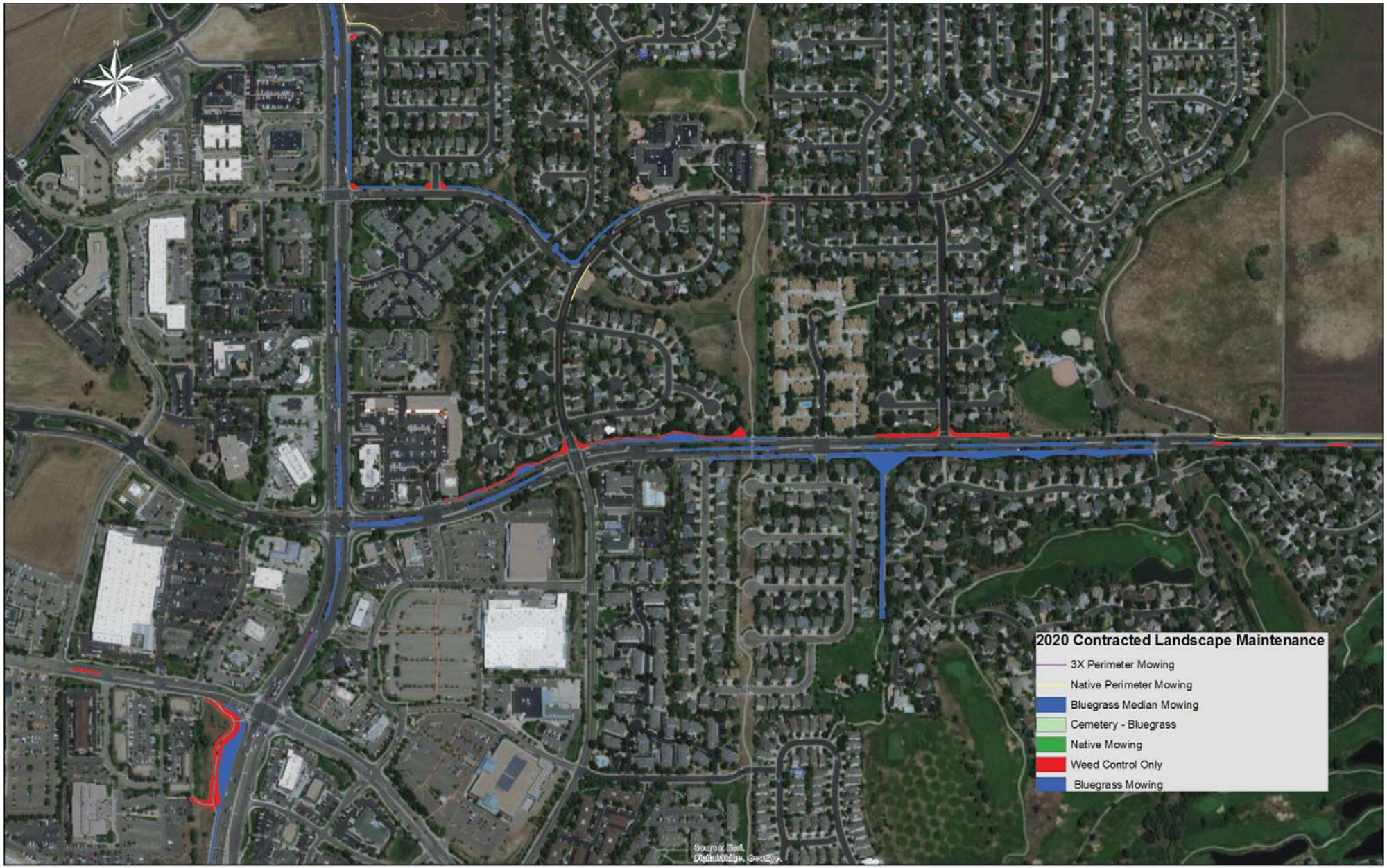
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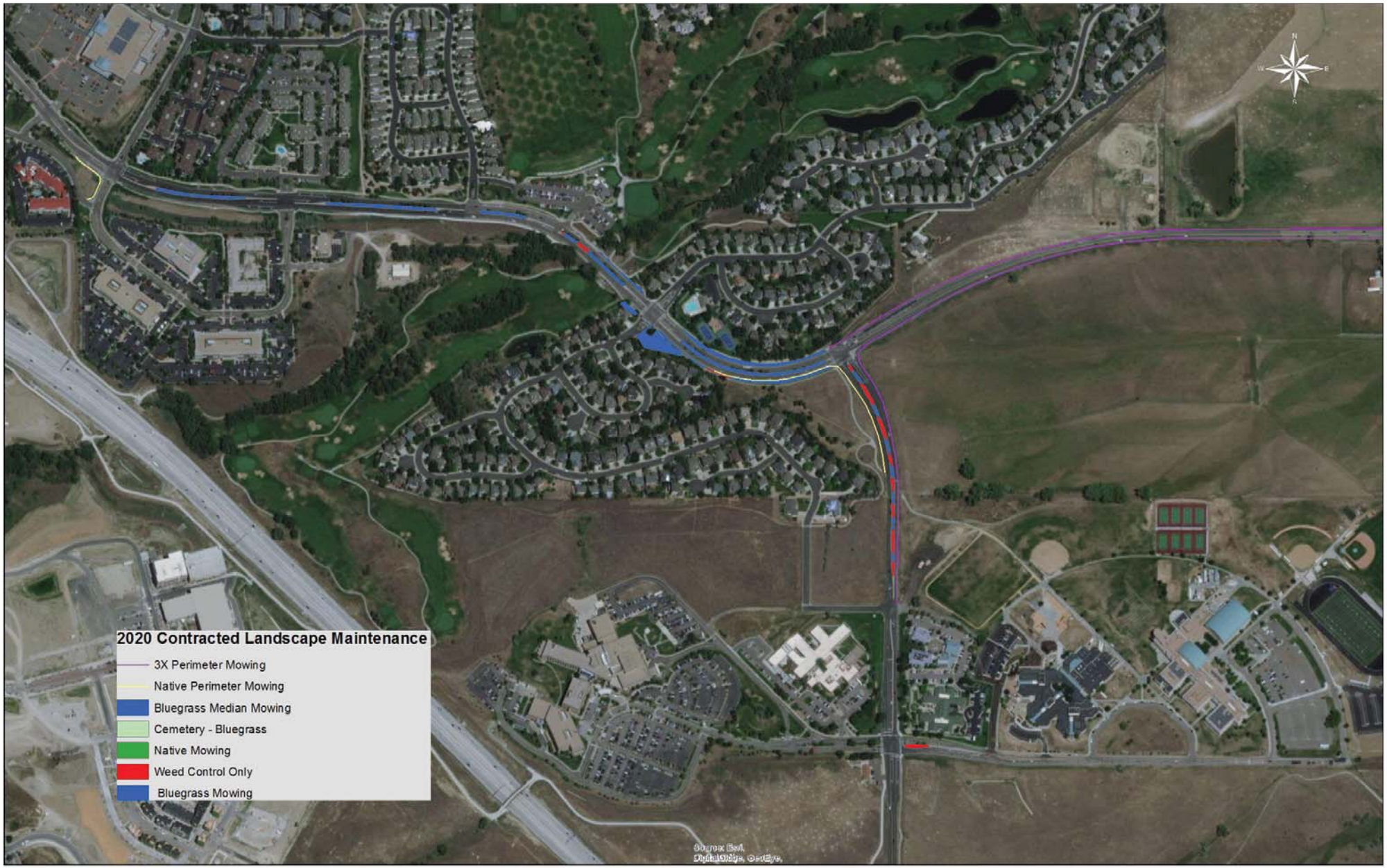
Source: Esri, DigitalGlobe, GeoEye,


2020 Contracted Landscape Maintenance
3X Perimeter Mowing
Native Perimeter Mowing
Bluegrass Median Mowing
Cemetery - Bluegrass
Native Mowing
Weed Control Only
Bluegrass Mowing

2020 Contracted Landscape Maintenance
3X Perimeter Mowing
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2020 Contracted Landscape Maintenance
3X Perimeter Mowing
Native Perimeter Mowing
Bluegrass Median Mowing
Cemetery - Bluegrass
Native Mowing
Weed Control Only
Bluegrass Mowing

**INSTRUCTIONS TO BIDDERS**

Due to recent direction given, weed control with a synthetic herbicide will no longer be allowed or apart of this contract. Because weed control is a primary component of this contract and a synthetic herbicide was the primary tool for use, this change in direction has made it necessary to ask for a revised bid to be submitted.

Revised bids will only be accepted from the contractors who previously submitted a bid for the 2020-2024 Landscape Maintenances Services contract, which were the following companies: TerraCare, Schultz Industries, Keesen Landscape, and Brightview Landscape Services.

Only the Bidders Proposal sheet shown below is required for submittal (a new bid bond is not necessary) but would encourage bidders to also provide a statement on reasonable level of quality to expect with the use of bidders recommended non-synthetic herbicide. In regards to that, and due to known efficiency loss with the use of non-synthetic versus synthetic herbicides, the following statements in Exhibit D have been modified. Mechanical removal will occur if directed by owner at the established hourly rate noted below in the revised bid proposal.

~~*Weeds shall be removed if they are larger than two (2") inches in height or diameter and disposed of off site.*~~

*For chemically controlling weeds, only a post-emergent non-selective non-synthetic herbicide shall be used. The Parks Superintendent must approve all herbicides prior to use. Pre-emergent and selective herbicide use is not allowed nor is it a part of the landscape maintenance contract.*

~~*The Contractor will spray all mulched tree wells a minimum of three (3) times during the contract period.*~~

*Weeds shall be ~~removed or killed~~ treated with a non-synthetic herbicide as the weeds emerge in the following areas: landscaped areas, shrub beds, mulched areas (wood and rock), medians (includes crack between median and street), tree wells, and sidewalks. Weed control in irrigated and non-irrigated turf and flowerbeds is excluded from this contract.*

Also, please be aware, Owner must approve the type and brand of non-synthetic herbicides before use. For example, owner may restrict the use of non-synthetic herbicides with a high concentration of acetic acid (20%).

**Revised Bidder's Proposal's must be received by 3:00 p.m. on March 5th**, and can be sent directly to Dean Johnson at deanj@louisvilleco.gov or dropped off at City Services Facility, 739 S. 104th St. For questions please contact Dean Johnson at deanj@louisvilleco.gov .

## REVISED BIDDER'S PROPOSAL

Place: City of Louisville

Date: 3/3/2020

Contractor: BrightView Landscape Services Inc.

Address: 645 Compton St, Broomfield, CO 80020

Contractor Phone: 720-708-0999

Contractor Email: William.jacobson@brightview.com

1. In compliance with your invitation for bids dated 3/3/2020 and subject to all conditions thereof, the undersigned: BrightView Landscape Services Inc. (company name) a Corporation in the State of Co. consisting of (partnership) (limited partnership) (company), or _____, an individual trading as: _____ of the City _____ State of _____ hereby proposes to furnish and do everything required by the Agreement to which this refers to the scope of services at the prices shown for each bid line on the following Bid Schedule.

2. The undersigned bidder does hereby declare and stipulate that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same work, and that it is made in pursuance of and subject to Bidders, the Agreement, and the specifications pertaining to the work to be done, all of which have been examined by the undersigned.

3. The undersigned bidder agrees to execute the Agreement within ten (10) calendar days from the date when the written notice of the award of the contract is delivered to him at the address given on this proposal.

4. The undersigned bidder agrees to abide by the requirements of Executive Order No. 11246, as amended.

5. All the various phases of work enumerated in the RFP documents, Agreement, and specifications with their individual jobs and overhead, whether specifically mentioned, included by implication or appurtenant thereto, are to be performed by the contractor under one of the items listed in the Bid Schedule, irrespective of whether it is named in said list.

6. Payment for work performed will be in accordance with the Bid Schedule.

The proposal includes subcontracting certain services from time to time to subcontractors as listed below:

**SUBCONTRACTORS**

| NAME | ADDRESS AND EMAIL |
|---|---|
| **True Green** | **8995 W 44th Ave, Wheat Ridge, CO 80033** |
| **WalterScott@trugreenmail.com** | |

*Contractor*

By: Dave Hanson

Title: SVPGM

Date: 3/3/20

Address: 645 Compton St Broomfield, CO 80020

## BID SCHEDULE

*(Quantity figures were derived from the aerial photos used in the Location Maps)*

| ITEM | DESCRIPTION | UNIT | QUANTITY | UNIT PRICE | QUANTITY PRICE | EXTENSION | TOTAL PRICE |
|---|---|---|---|---|---|---|---|
| 1 | **Bluegrass Areas** *(Weekly maintenance, includes weed control)* | SF | 2,291,096 | $0.0012 | $2,778.58 | 28 Times/Cycles | $77,800.23 |
| 2 | **Weed Control Areas** *(Weekly Maintenance)* | SF | 383,254 | $0.00397 | $1,522.99 | 28 Times/Cycles | $42,643.72 |
| 3 | **Native Perimeter Mowing** *(Bi-monthly maintenance includes weed control)* | LF | 57,768 | $0.00606 | $349.82 | 14 Times/Cycles | $4,897.46 |
| 4 | **Native Mowing** *(Bi-monthly maintenance, includes weed control)* | SF | 555,201 | $0.00329 | $1,825.81 | 14 Times/Cycles | $25,561.29 |
| 5 | **3X Perimeter Mowing (Right-of-Way Mowing)** *(Dillon Rd + 96 St. – mow to fence or ditch line)* | LF | 37,659 | $0.0061 | $231.47 | 3 Times/Cycles | $694.40 |
| 6 | **Cemetery Bluegrass** *(Weekly maintenance Includes weed control and mowing)* | SF | 362,539 | $0.0034 | $1,223.14 | 28 Times/Cycles | $34,247.95 |
| | | | | | | **TOTAL BID** | $185,844.65 |

TOTAL BID IN WORDS:

Mow turf, trim, blow, edge and weed control for the City of Louisville. Total contract value annually is One Hundred Eighty Five Thousand,
Forty Seven Dollars and Ninety Five Cents.

## Additional Services/Hourly Rates

Please fill in a unit price for #1 and #2. Submitting a unit price for #3 is optional. Owner must approve all recommend non-synthetic herbicides and mechanical methods.

1. Weed Control, organic or non-synthetic herbicide spraying rate $68.24 per hour including Material

*Please list preferred chemical for use and describe method if needed*

***Cheetah Pro Herbicide. See Attached PDF for chemical breakdown.***

2. Weed Control – mechanical removal (weed pulling) $40 per hour

*Please describe method if needed*

***Hand pulling and utilizing normal tool method to extract weeds***

3. Weed Control – mechanical removal (additional alternative methods such as steaming, flame, trimming, etc.) $50 per hour

*Please describe method*

***This rate includes all methods mentioned above***

RESPECTFULLY SUBMITTED:

By: David L Hanson

Title: SVPGM

Date: 3/2/2020

Address: 645 Compton st, Bro

License Number (if Applicable):

BrightView
Landscape Services

# Price Increase Breakdown

Year 1: $178,629

Year 2: Flat

Year 3: $182,202 = 2% increase

Year 4: $185,846 = 3% increase

Year 5: Flat

**Sample Agreement**

# INDEPENDENT CONTRACTOR AGREEMENT BY AND BETWEEN THE CITY OF LOUISVILLE AND BRIGHTVIEW LANDSCAPE SERVICES, INC. FOR LANDSCAPE MAINTENANCE SERVICES

## 1.0 PARTIES

This INDEPENDENT CONTRACTOR AGREEMENT (this "Agreement") is made and entered into this ___1__ day of ____April_____, 2020_ (the "Effective Date"), by and between the **City of Louisville**, a Colorado home rule municipal corporation, hereinafter referred to as the "City", and __, [Name of Contractor] a _____INC._____[State of Formation and Type of Entity], hereinafter referred to as the "Contractor".

## 2.0 RECITALS AND PURPOSE

2.1 The City desires to engage the Contractor for the purpose of providing landscape maintenance_ services as further set forth in the Contractor's Scope of Services (which services are hereinafter referred to as the "Services").

2.2 The Contractor represents that it has the special expertise, qualifications and background necessary to complete the Services.

## 3.0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference. Contractor shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the City.

## 4.0 COMPENSATION

4.1 The City shall pay the Contractor for Services under this Agreement a total not to exceed the amounts set forth in Exhibit "A" attached hereto and incorporated herein by this reference. For Services compensated at hourly or per unit rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in Exhibit A. The City shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.), unless such expenses are (1) clearly set forth in the Scope of Services, and (2) necessary for performance of the Services ("Pre-Approved Expenses"). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside Contractor fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No City employee has the authority to bind the City with regard to any payment for any Services which exceeds the amount payable under the terms of this Agreement.

4.2 The Contractor shall submit monthly an invoice to the City for Services rendered and a detailed expense report for Pre-Approved Expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying

by work category and subcategory the work and tasks performed and such other information as may be required by the City. The Contractor shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

## 5.0 PROJECT REPRESENTATION

5.1 The City designates Dean Johnson, Jr. as the responsible City staff to provide direction to the Contractor during the conduct of the Services. The Contractor shall comply with the directions given by Dean Johnson, Jr. and such person's designees.

5.2 The Contractor designates _____as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly _____, and such replacement require the City or the Contractor to undertake additional reevaluations, coordination, orientations, etc., the Contractor shall be fully responsible for all such additional costs and services.

## 6.0 TERM

6.1 The term of this Agreement shall be from the Effective Date to _____, unless sooner terminated pursuant to Section 13, below. The Contractor's Services under this Agreement shall commence on [(the Effective Date) or (on another date desired by the City, after the Effective Date)] and Contractor shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.

6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the City under this Agreement are subject to annual budgeting and appropriation by the Louisville City Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

## 7.0 INSURANCE

7.1 The Contractor agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of Services hereunder. The required coverages are:

7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.

7.1.2 General Liability insurance with minimum combined single limits of $1,000,000 each occurrence and $2,000,000 aggregate. The policy shall include the City of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the City of Louisville, its officers and its employees, and shall contain a severability of interests provision.

7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than $400,000 per person in any one occurrence and $1,000,000 for two or more persons in any one occurrence, and auto property damage insurance of at least $50,000 per occurrence, with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the Services. If the Contractor has no owned automobiles, the requirements of this paragraph shall be met by each officer or employee of the Contractor providing services to the City of Louisville under this contract.

7.2 The Contractor's general liability insurance and automobile liability and physical damage insurance shall be endorsed to include the City, and its elected and appointed officers and employees, as additional insureds, unless the City in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Contractor. Such policies shall contain a severability of interests provision. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

7.3 Certificates of insurance shall be provided by the Contractor as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. No required coverage shall be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

7.4 Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

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

## 8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the Services hereunder, if such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Contractor shall further bear all other costs and expenses incurred by the City or Contractor and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Contractor. The City shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

## 9.0 QUALITY OF WORK

Contractor's Services shall be performed in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the City.

## 10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Contractor is an independent contractor and not the agent, employee or servant of the City, and that:

10.1. **CONTRACTOR SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSE RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, PAYMENT OF STATE, FEDERAL AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKERS' COMPENSATION AND SELF-EMPLOYMENT TAXES. NO STATE, FEDERAL OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE CITY.**

10.2. **CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS EXCEPT AS MAY BE PROVIDED BY THE INDEPENDENT CONTRACTOR NOR TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THE INDEPENDENT CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY.**

10.3. Contractor does not have the authority to act for the City, or to bind the City in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the City.

10.4. Contractor has and retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder.

10.5. The City will not provide training or instruction to Contractor or any of its employees regarding the performance of the Services hereunder.

10.6. Neither the Contractor nor any of its officers or employees will receive benefits of any type from the City.

10.7. Contractor represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.

10.8. All Services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.

10.9. Contractor will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

**11.0 ASSIGNMENT**

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder without the City's prior written consent.

**12.0 DEFAULT**

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

**13.0 TERMINATION**

13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

13.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the Services rendered to the date of termination, not to exceed a pro-rated daily rate, for the Services rendered to the date of termination, and upon such payment, all obligations of the City to the Contractor under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

**14.0 INSPECTION AND AUDIT**

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**15.0 DOCUMENTS**

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the City in performance of the Services are and shall remain the sole

and exclusive property of the City. All such materials shall be promptly provided to the City upon request therefor and at the time of termination of this Agreement, without further charge or expense to the City and in hardcopy or an electronic format acceptable to the City, or both, as the City shall determine. Contractor shall not provide copies of any such material to any other party without the prior written consent of the City. Contractor shall not use or disclose confidential information of the City for purposes unrelated to performance of this Agreement without the City's written consent.

**16.0 ENFORCEMENT**

16.1 In the event that suit is brought upon this Agreement to enforce its terms, the parties shall each bear and be responsible for their own attorneys' fees and court costs.

16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the courts of Boulder County or the federal district court for the District of Colorado, and in no other court. Colorado law shall apply to the construction and enforcement of this Agreement.

**17.0 COMPLIANCE WITH LAWS; WORK BY ILLEGAL ALIENS PROHIBITED**

17.1 Contractor shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

17.2 Exhibit B, the "City of Louisville Public Services Contract Addendum-Prohibition Against Employing Illegal Aliens", is attached hereto and incorporated herein by reference. There is also attached hereto a copy of Contractor's Pre-Contract Certification which Contractor has executed and delivered to the City prior to Contractor's execution of this Agreement.

**18.0 INTEGRATION AND AMENDMENT**

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

**19.0 NOTICES**

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by email transmission, addressed to the party for whom it is intended at the following address:

If to the City:

City Services Facility
Attn: Dean Johnson, Jr.
739 S. 104th St.
Louisville, CO 80027

e-mail: _deanj@louisvilleco.gov

If to the Contractor:

BrightView Landscape Services
Attn: _____
_____
_____
Email: _____

Except for notices by email transmission, any notice required or permitted under this Agreement shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail. Notices by email transmission shall be effective on transmission, so long as no message of error or non-receipt is received by the party giving notice. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

**20.0 EQUAL OPPORTUNITY EMPLOYER**

a) Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, veteran status, or any other applicable status protected by state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status set forth in the preceding sentence. 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

b) Contractor shall be in compliance with the applicable provisions of the American with Disabilities Act as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

**21.0 NO THIRD PARTY BENEFICIARIES**

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than City or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

## 22.0 SUBCONTRACTORS

Contractor may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Contractor will submit any proposed subcontractor and the description of its services to the City for approval. The City will not work directly with subcontractors.

## 23.0 AUTHORITY TO BIND

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

In witness whereof, the parties have executed this Agreement to be effective as of the day and year first above written.

CITY OF LOUISVILLE

By:_____
Mayor

Attest:_____
City Clerk

CONTRACTOR:
BrightView Landscape Service, Inc.

By:_____
Title:_____

**Exhibit B**

**City of Louisville Public Services Contract Addendum**
**Prohibition Against Employing Illegal Aliens**

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

a. Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, City may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City.

**Pre-Contract Certification in Compliance with C.R.S. Section 8-17.5-102(1)**

The undersigned hereby certifies as follows:

That at the time of providing this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform under the public contract for services.

Proposer:
_____

By_____
Title:_____

_____
Date

# CITY COUNCIL COMMUNICATION
## AGENDA ITEM 5I

**SUBJECT:** **APPROVAL OF RESOLUTION NO. 24, SERIES, 2020 – A RESOLUTION ESTABLISHING A COTTONWOOD PARK TASK FORCE TO PROVIDE ADVISORY RECOMMENDATIONS ON THE MASTER PLAN FOR COTTONWOOD PARK**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **NATHAN MOSLEY, DIRECTOR OF PARKS, RECREATION AND OPEN SPACE**
**ALLAN GILL, PARKS PROJECT MANAGER**

**SUMMARY:**
Master Planning and redevelopment of Cottonwood Park will provide additional amenities to meet the recreational needs of Louisville residents. The recommended design and program of the park is to be determined through a public process and supported by the formation of a citizen Task Force. The attached resolution would create such a Task Force to provide advisory recommendations on the Cottonwood Park Master Plan.

Staff recommends the Task Force consist of three to six members representing the community as well as two members from the Parks and Public Landscaping Advisory Board, two members from the Open Space Advisory Board, and two members from the Recreation Advisory Board. Once the Task Force is established staff will start the process of recruiting the at-large community representatives. Staff will return to City Council with a list of possible appointees for consideration later this spring.

The proposed schedule for the project includes master plan development in 2020, park design and development including construction drawings in 2021, and construction following as funding is available.

**FISCAL IMPACT:**
$216,000 is budgeted in 2020 in the Open Space and Parks Fund for conducting a master plan process for Cottonwood Park.

**PROGRAM/SUB-PROGRAM IMPACT:**
The recommended contract supports objectives of the Parks Program by providing facilities that are enjoyable for everyone to visit. Replacing / Improving playgrounds and equipment improves safety, helps to maintain levels of service for residents and helps the City meet ADA requirements.

**RECOMMENDATION:**
Approve Resolution No. 24 Series, 2020

**ATTACHMENT(S):**

1. Resolution No. 24, Series 2020

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | **Financial Stewardship & Asset Management** | ☒ | **Reliable Core Services** |
| ☐ | **Vibrant Economic Climate** | ☒ | **Quality Programs & Amenities** |
| ☒ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

**RESOLUTION NO. 24**
**SERIES 2020**

**A RESOLUTION ESTABLISHING A COTTONWOOD PARK TASK FORCE TO PROVIDE ADVISORY RECOMMENDATIONS ON THE MASTER PLAN FOR COTTONWOOD PARK**

**WHEREAS**, the City strives to be both effective and efficient with public outreach, public involvement and notification for city projects, general information and special events; and

**WHEREAS**, the City Council and City staff wants, encourages, and requires citizen input on the possible changes to City facilities; and

**WHEREAS**, pursuant to Charter Section 10-2(f), the City Council desires to establish a Cottonwood Park Task Force to provide advisory recommendations on the Cottonwood Park Master Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCILOF THE CITY OF LOUISVILLE, COLORADO:**

1. There is hereby created a Cottonwood Park Task Force to provide advisory recommendations in the Cottonwood Park Master Plan.

2. The Task Force will consist of 9-12 members of the appointed by the City Council with an interest in and knowledge of the topic.

3. Of those members, six (6) shall come from the City's existing boards as follows:
    a. Two (2) members from the Parks and Public Landscapes Advisory Board
    b. Two (2) members from the Open Space Advisory Board
    c. Two (2) members from the Recreation Advisory Board

4. The Director of Parks and Recreation shall designate appropriate City staff to facilitate, assist and advise the Task Force as it works to achieve the goals specified above.

5. The Task Force shall conclude its work and present its recommendations with a consultant to the City Council.

6. The Task Force shall sunset on December 1, 2021

**PASSED AND ADOPTED** this 17th day of March, 2020.

_____
Ashley Stolzmann, Mayor

Attest: _____
Meredyth Muth, City Clerk

**SUBJECT:** **RESOLUTION NO. 25, SERIES 2020 – A RESOLUTION APPROVING A PUBLIC INFRASTRUCTURE ASSISTANCE AGREEMENT BETWEEN THE CITY OF LOUISVILLE, THE LOUISVILLE REVITALIZATION COMMISSION, AND 824 SOUTH, INC.**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **MEGAN E. PIERCE, ECONOMIC VITALITY DIRECTOR**

**SUMMARY:**
On February 12, 2020 the Louisville Revitalization Commission (LRC) reviewed 824 South, Inc.'s application for assistance with public infrastructure and utility improvements at 824 South Street / 957 Main Street in downtown Louisville. In converting an existing residential structure and constructing buildings, the project will bring new commercial uses to downtown such as retail, restaurant or small café, potential boutique hotel, and/or office space. LRC was supportive of the request for assistance and directed staff to prepare a public infrastructure assistance agreement with 824 South, Inc. The LRC agreed to advance the agreement for Council consideration at its March 11, 2020 meeting.

Material from the February 12, and March 11, 2020 LRC meetings is attached as reference.

**DISCUSSION:**
The LRC reviewed the application for assistance against three goals: 1) Removal of blight factors; 2) Positive effect on property values; and 3) Advancement of the Urban Renewal Area (URA). Both staff and members of the LRC felt the proposed project, which is making a $4.31 to $4.44 million investment at 824 South / 957 Main Street, met all three goals and would be an overall benefit the URA.

The applicant seeks assistance up to $275,000 that focuses on work in the public Right-of-Way, including:

- Installing new sidewalks, curb and gutter, and alley pan;
- Adding brick paving accents, street trees in tree grates, and decorative street lights in conformance with the Downtown streetscape program;
- Cutting and patching street and alley for utility improvements and extensions;
- Removing non-conforming utilities; and
- Providing adequate power and gas from off-site.

The agreement has been structured so that the applicant will construct the work outlined to the City's standards and in line with the existing Downtown streetscape. The

applicant is required to obtain the appropriate warranties and will submit the completed work for City inspection and approval. Once work is approved, an invoice would be submitted; the applicant will be rebated for actual expenses provided up to the $275,000 cap. To facilitate this work, the agreement also outlines the LRC will provide the financial guarantee to the City for the warranty work ($275,000 X 1.15), which if unused, goes back to the LRC. The agreement provides for termination should the developer not have completed the project improvements by December 31, 2020.

If the agreement is adopted by City Council, the LRC has scheduled a special meeting on March 25th to finalize its adoption.

**FISCAL IMPACT:**
The proposed public infrastructure agreement caps assistance to 824 South, Inc. at $275,000. The LRC will also be responsible to provide the financial guarantee for the project work during the warranty period.

**PROGRAM/SUB-PROGRAM IMPACT:**
The proposed public infrastructure assistance agreement supports the Economic Prosperity Program goal to facilitate investment and produce reliable revenue to support City services.

**RECOMMENDATION:**
The LRC recommends City Council approve the attached Resolution for an agreement among the City, the LRC, and 824 South, Inc. for public infrastructure assistance.

**ATTACHMENTS:**
1. Resolution and Public Infrastructure Assistance Agreement
2. February 12 and March 11 LRC Communications
3. Presentation

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | **Financial Stewardship & Asset Management** | ☐ | **Reliable Core Services** |
| ☒ | **Vibrant Economic Climate** | ☐ | **Quality Programs & Amenities** |
| ☐ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

**RESOLUTION NO. 25**
**SERIES 2020**

**A RESOLUTION APPROVING A PUBLIC INFRASTRUCTURE ASSISTANCE AGREEMENT BETWEEN THE CITY OF LOUISVILLE, THE LOUISVILLE REVITALIZATION COMMISSION, AND 824 SOUTH, INC.**

**WHEREAS,** the City of Louisville (the "City") is a home-rule city and municipal corporation duly organized and existing under and pursuant to Article XX of the Colorado Constitution and Charter of the City; and

**WHEREAS,** the Louisville Revitalization Commission (the "LRC") is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the "Act"); and

**WHEREAS,** the LRC is charged with addressing issues contributing to blight within the Highway 42 Revitalization Area; and

**WHEREAS,** 824 South, Inc., has requested assistance from the LRC in the redevelopment of property located at 957 Main Street and 824 South Street, which is located within the Highway 42 Revitalization Area; and

**WHEREAS,** the LRC assistance to redevelop the property will reduce, eliminate, and prevent the spread of blight within the Hwy 42 Revitalization Area and stimulate growth and reinvestment within the Area boundaries; and

**WHEREAS,** the proposed Public Infrastructure Assistance Agreement outlines the amount, terms, and conditions of such LRC assistance; and

**WHEREAS,** the Highway 42 Revitalization Area Urban Renewal Plan requires any redevelopment agreement or other contract the LRC determines necessary or desirable to carry out the purposes of the Urban Renewal Plan be provided to the City Council for Council's review and approval prior to the LRC's final approval of such redevelopment agreement or other contract; and

**WHEREAS,** in accordance with the Amended and Restated Cooperation Agreement dated November 17, 2015 (the "Cooperation Agreement"), the LRC may not enter into a financial obligation extending beyond the current fiscal year unless a majority of the City Council has adopted a resolution determining the City's interests in connection with such obligation are adequately protected; and

**WHEREAS,** the Cooperation Agreement further provides that, prior to LRC approval of any redevelopment agreement or contract contemplated to carry out the purposes of any urban renewal plan, the City Council shall approve such agreement or contract by resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:**

**Section 1.** The City Council finds the financial assistance contemplated by the proposed Public Infrastructure Assistance Agreement between the City of Louisville, the Louisville Revitalization Commission, and 824 South, Inc., (the "Agreement") , a copy of which is attached hereto and incorporated herein by this reference, is not a debt or other financial obligation of the City, no City funds are pledged thereby, and the City's interests in connection with the obligations set forth in the Agreement are adequately protected.

**Section 2.** The proposed Agreement is hereby approved.

**Section 3.** The Mayor is hereby authorized to execute the Agreement on behalf of the City Council of the City of Louisville, and the Mayor is hereby further authorized to negotiate and approve such revisions to the Agreement as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of such Agreement are not altered.

**PASSED AND ADOPTED** this 17th day of March, 2020.

_____
Ashley Stolzmann, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

**PUBLIC INFRASTRUCTURE ASSISTANCE AGREEMENT**

This Public Infrastructure Assistance Agreement (this "Agreement") is made on _____, 2020, by and among the LOUISVILLE REVITALIZATION COMMISSION (the "LRC"), the CITY OF LOUISVILLE (the "City"), and 824 SOUTH, INC., a Colorado corporation (the "Developer") (The LRC, the City, and Developer are collectively the "Parties").

RECITALS

A. The LRC is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the "Act").

B. The Developer is the owner of certain real property located at 957 Main Street and 824 South Street, Louisville, CO, which is legally described as Lot 1, Block 5, Town of Louisville, County of Boulder, State of Colorado.

C. The Developer proposes a commercial development consistent with the 824 South Street/957 Main Street Planned Unit Development Amendment (Reception No. 03746760) and Special Review Use Amendment (Reception No. 03746762). The project includes conversion of the existing residential structure to a commercial use and construction of an adjoining new structure for commercial use. The development could include a mix of commercial uses, such as restaurants, cafes, hotel, and office space. The project proposes 10,847 square feet of rentable space, inclusive of the 2,137 square foot residential structure being converted for commercial and/or hotel use; angled parking is planned for South Street adjacent to the Property (the "Project").

D. The Project includes associated public and private infrastructure improvements, including but not limited to sidewalks, curb and gutter, alley pan, brick paving accents, street trees in tree grates, and decorative street lights; extension of adequate utilities to the site including water, sanitary sewer and storm sewer, including removal of existing non-conforming utilities and cutting and patching street and alley; and work to provide adequate power and gas from offsite (the "Project Improvements"). The Project Improvements are further described and depicted in Exhibit A, which is attached hereto and incorporated herein by this reference.

E. The Project is located within the area (the "Plan Area") described in the Highway 42 Revitalization Area Urban Renewal Plan (the "Plan"). Completion of the Project and Project Improvements will remove barriers to development and remediate adverse conditions within the Plan Area, and will be carried out in furtherance of the purposes of the Act and Plan.

F. The LRC finds that entering into this Agreement will promote the redevelopment of an area within the Plan Area and LRC boundaries and will remediate adverse conditions within the Plan Area in a manner consistent with the Plan, and will

provide a mechanism for assisting in the financing of Project Improvements that benefit the City of Louisville (the "City") and its residents.

G. The Plan allows the LRC to fund public infrastructure improvements necessitated by or associated with private developments by means of advance and reimbursement funding agreements in accordance with the Act.

H. The LRC is authorized to enter into this Agreement pursuant to the Act, including without limitation C.R.S. Section 31-25-105(1)(b), which authorizes an urban renewal authority to enter into agreements to carry out the purposes of the Act.

## AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the following terms and conditions, the Parties agree as follows:

1. Construction of Project. In conjunction with the development of the Project, Developer will finance, design and construct the Project and Project Improvements with its own funds. Developer shall not commence construction of the Project or Project Improvements unless and until the developer has obtained necessary City of Louisville approvals and permits. Developer shall comply with the terms of separate agreements with the City pertaining to the Project or Project Improvements.

2. LRC Financial Assistance and Developer Warranty.

a. Following execution of this Agreement, the LRC shall deposit with the City one hundred and fifteen percent (115%) of the total contract amount ($275,000 *multiplied by* 1.15), which sum shall be kept in a separate account ("Financial Guarantee"). The City shall reimburse Developer an amount not to exceed the amounts set forth in Exhibit A for Project Improvements completed under this Agreement ("total contract amount"). Developer shall not be entitled to payment until Project Improvements are completed by the Developer and inspected and conditionally accepted by the City. Developer may not submit an invoice for any Project Improvements that have not been completed and construction is inspected and accepted by the City as set forth in subsection (d) below. No City employee or LRC member or employee has the authority to bind the City or LRC with regard to any payment which exceeds the amount payable under the terms of this Agreement.

b. Upon the City's conditional acceptance of the Project Improvements, the Developer shall submit an invoice to the City for actual costs incurred in construction of the Project Improvements, not to exceed the amounts set forth in Exhibit A. The Developer invoice shall document the Project Improvements that have been completed by the Developer and inspected and conditionally accepted by the City, and such other information as may be required by the City. The Developer shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the accompanying documentation is

unsatisfactory. The City shall retain the remaining fifteen percent (15%) of the Financial Guarantee to secure the Developer's continued performance under the Agreement until the warranty period set forth in subsection (e) has expired, and upon expiration of such period shall refund the remainder of the Financial Guarantee to the LRC.

c. The Parties shall each keep, or cause to be kept, proper and current books and accounts in which complete and accurate entries shall be made for costs associated with the Project and Project Improvements, and payments made by and received from the City under this Agreement.

d. Construction Acceptance. No later than ten (10) days after improvements are completed, Developer shall request inspection by the City. If Developer does not request this inspection within ten (10) days of completion of improvements, the City may conduct the inspection without the approval of Developer. Developer shall provide "as-built" drawings and a certified statement of construction costs no later than thirty (30) days after improvements are completed. If improvements completed by Developer are satisfactory, the City shall grant "construction acceptance", which shall be subject to "final acceptance" as set forth herein. If improvements completed by Developer are unsatisfactory, the City shall provide written notice to Developer of the repairs, replacements, construction or other work required to receive "construction acceptance." Developer shall complete all needed repairs, replacements, construction or other work within thirty (30) days of said notice, weather permitting, or by an extended amount of time approved by the City in writing in advance, based on the City's determination that the repairs, replacements, construction or other work are of the nature that the items cannot be completed within thirty (30) days even though the Developer has diligently worked to complete said items. After Developer does complete the repairs, replacements, construction or other work required, Developer shall request of the City a re-inspection of such work to determine if construction acceptance can be granted, and the City shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. The City reserves the right to schedule re-inspections, depending upon scope of deficiencies. **No certificate of occupancy shall be issued for the Project prior to construction acceptance of the Project Improvements.**

e. Warranty & Maintenance of Improvements. For a Two (2) year period from the date of "construction acceptance" of the Project Improvements, Developer shall, at its own expense, take all actions necessary to maintain said improvements and make all needed repairs or replacements which, in the reasonable opinion of the City, shall become necessary. If within thirty (30) days after Developer's receipt of written notice from the City requesting such repairs or replacements, the Developer has not completed such repairs, the City may exercise its rights as provided in Section (3) below. Notwithstanding the above, the Developer and each successor owner of the Project shall be responsible for the maintenance obligations provided for herein.

3. Breach.

a. In the event that the Developer should fail to timely comply with any of the terms, conditions, covenants and undertakings of the Agreement, and if such noncompliance is not cured and brought into compliance within thirty (30) days of written notice of breach of the Developer by the City, unless the City in writing and in its sole discretion designates a longer cure period, then the City may draw on the Financial Guarantee and complete the Project Improvements at Developer's expense. Developer's expense shall be limited to the costs actually incurred by the City. Notice by the City to the Developer will specify the conditions of default. If the City determines in its sole discretion that an emergency exists, such that the improvement must be completed in less than seven (7) days, the City may immediately complete the Improvements at Developer's expense; in such event, the City shall use its best efforts to notify Developer at the earliest practical date and time. The City may also, during the cure period and until completion of the improvements in compliance with this Agreement, withhold any additional building permits, certificates of occupancy, or provision of new utilities fixtures or services. Nothing herein shall be construed to limit the City from pursuing any other remedy at law or in equity which may be appropriate under city, state or federal law. Failure to timely complete construction of Project Improvements which is due to inclement weather, unavailability of labor or materials, or force majeure shall not be considered a breach of the Agreement. Any costs incurred by the City, including, but not limited to, reasonable administrative costs and reasonable attorney's fees, in pursuit of any remedies due to the breach by the Developer shall be the responsibility of the Developer.

b. Reimbursement to City. Upon Developer’s breach of any of its obligations beyond any applicable cure period, the City may complete construction, repairs, replacements, or other work of Developer, in which event Developer shall reimburse the City within thirty (30) days after receipt of written demand and supporting documentation from the City. If Developer fails to so reimburse City, then Developer shall be in default of the Agreement, and the City shall have any remedy at law or in equity which may be appropriate under city, state or federal law to enforce Developer’s obligations under this Agreement.

4. Entire Agreement. This instrument shall constitute the entire agreement among the LRC, the City, and Developer and supersedes any prior agreements between the Parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter. Contact information is as follows:

**If to Developer:**
824 SOUTH, INC.
Attn: Barbie Iglesias (with copy by email to Erik Hartronft)
5718 Westheimer, Suite 1806
Houston, TX 77057
Phone: 720.891.1580
baigles@outlook.com
erik@hapcdesign.com

**If to LRC:**
Louisville Revitalization Commission
Attn: Economic Vitality
749 Main Street
Louisville, CO 80027
303.335.4531
mpierce@louisvilleco.gov

**If to City:**
City of Louisville
Attn: City Manager
749 Main Street
Louisville, CO 80027
Heatherb@Louisvilleco.gov

5. Termination. This Agreement shall terminate and become void and of no force or effect upon the LRC and City if, by December 31, 2020 Developer has not completed the Project Improvements (as evidenced by a successful final inspections and final acceptance of the Project Improvements), or should Developer fail to comply with any City code after proper notice and reasonable opportunity to cure the same. This Agreement shall automatically terminate upon expiration or termination of the Plan, and upon such expiration or termination, the Parties' obligations hereunder shall terminate, whether or not the full cost of the Project Improvements has been reimbursed to the Developer.

6. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. In the event of a dispute concerning any provision of this Agreement, the Parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experienced mediator, or panel of mediators for the purpose of resolving such dispute. In the event such dispute is not fully resolved by mediation or otherwise within 60 days of a request for mediation by any Party, then any Party may commence legal proceedings regarding the dispute. The venue for any lawsuit concerning this Agreement shall be in the District Court for Boulder County, Colorado.

7. Legal Challenge; Escrow. The LRC and City shall have no obligation to make any payment hereunder during the pendency of any legal challenge to this Agreement. The Parties covenant that neither will initiate any legal challenge to the validity or enforceability of this Agreement, and the Parties will cooperate in defending the validity or enforceability of this Agreement against any challenge by any third party. Any funds appropriated for payment under this Agreement shall be escrowed in a separate City account in the event there is a legal challenge to this Agreement. In the event performance of any material term of this Agreement is rendered impossible as the result of any legal challenge, the City or LRC may terminate this Agreement, in which case the

Parties' obligations hereunder shall terminate; provided, however, that the City shall pay to Developer any Pledged Revenues accrued and appropriated for payment under this Agreement prior to such termination, to the extent permitted by law and any applicable court order.

8. Assignment. This Agreement is personal to Developer and Developer may not assign any of the obligations, benefits or provisions of the Agreement in whole or in any part without the expressed written authorization of the City. Any purported assignment, transfer, pledge, or encumbrance made without such prior written authorization shall be voidable by the City.

9. No Joint Venture. Nothing is this Agreement is intended or shall be construed to create a joint venture between the LRC, the City, and Developer and neither the LRC nor the City shall be liable or responsible for any debt or obligation of Developer.

10. Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the City under this Agreement are subject to annual budgeting and appropriation by the Louisville City Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

NEXT PAGE IS THE SIGNATURE PAGE

This Public Infrastructure Assistance Agreement is effective on the date first above written.

**824 SOUTH, INC.**

A Colorado Limited Liability Company

By: _____

Name: _____

Title: _____

ATTEST:

_____

_____
Print Name

**LOUISVILLE REVITALIZATION COMMISSION**

By: _____
Steve Fisher, Chair

ATTEST:

_____
Alex Gorsevski, Secretary

**CITY OF LOUISVILLE**

By: _____
Ashley Stolzmann, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

**EXHIBIT A**
**Description of Project Improvements**

# Louisville Revitalization Commission

Application for Assistance

Parties interested in assistance from the Louisville Revitalization Commission must provide the following information to be considered.

Project Name: 957 Main Street / 824 South Street Redevelopment

Applicant Name: 824 South, Inc.

Main Contact: Barbie Iglesias (with copy to Erik Hartronft)

Address: 5718 Westheimer, Suite 1806, Houston, Tx 77057

Phone: 720-891-1580 Email: baigles@outlook.com & erik@hapcdesign.com

Project Location: 957 Main Street / 824 South Street

Name, Address & Phone of Property Owner of Project Location (if different than Applicant):

Summary of Project: Project includes renovation & rehabilitation of existing residential structure for commercial and/or hotel use and construction of new structure adjoining the existing structure with parking accessed from the alley. The anticipated uses include retail, restaurant or small cafe, potential boutique hotel and/or office space. The total above grade commercial space is 8,348gsf with 3,270gsf of basement space. Sitework includes reconstruction of sidewalks, curb and gutter, alley drive pan, and on-site patio areas for outdoor seating, as well as utility work necessary for the new development. The City desires to extend the downtown streetscape including brick paving, street trees in tree grates and decorative street lights to extend west on South Street to the alley adjacent to the project. The applicant has also proposed angled parking on South Street to increase public parking in the area.

Estimated Total Cost of Project: $4.31 - $4.44 Million (not including land and holding costs)
$3,139,956 Core and Shell Construction + $520k to $650k Estimated Tenant Improvements
+ $653,748 City Fees and Professional Fees = $4,313,704 to $4,443,704 Plus Land Cost

Summary of Request for Assistance: Applicant is seeking assistance for work in the public Right of Way, generally including sidewalks, curb and gutter, alley pan, brick paving accents, street trees in tree grates, decorative street lights, cut and patch street and alley for utilities and extend adequate utilities to the site including water, sanitary sewer and storm sewer, including removing existing non-conforming utilities and provide adequate power & gas from offsite.

Estimated Assistance Request:

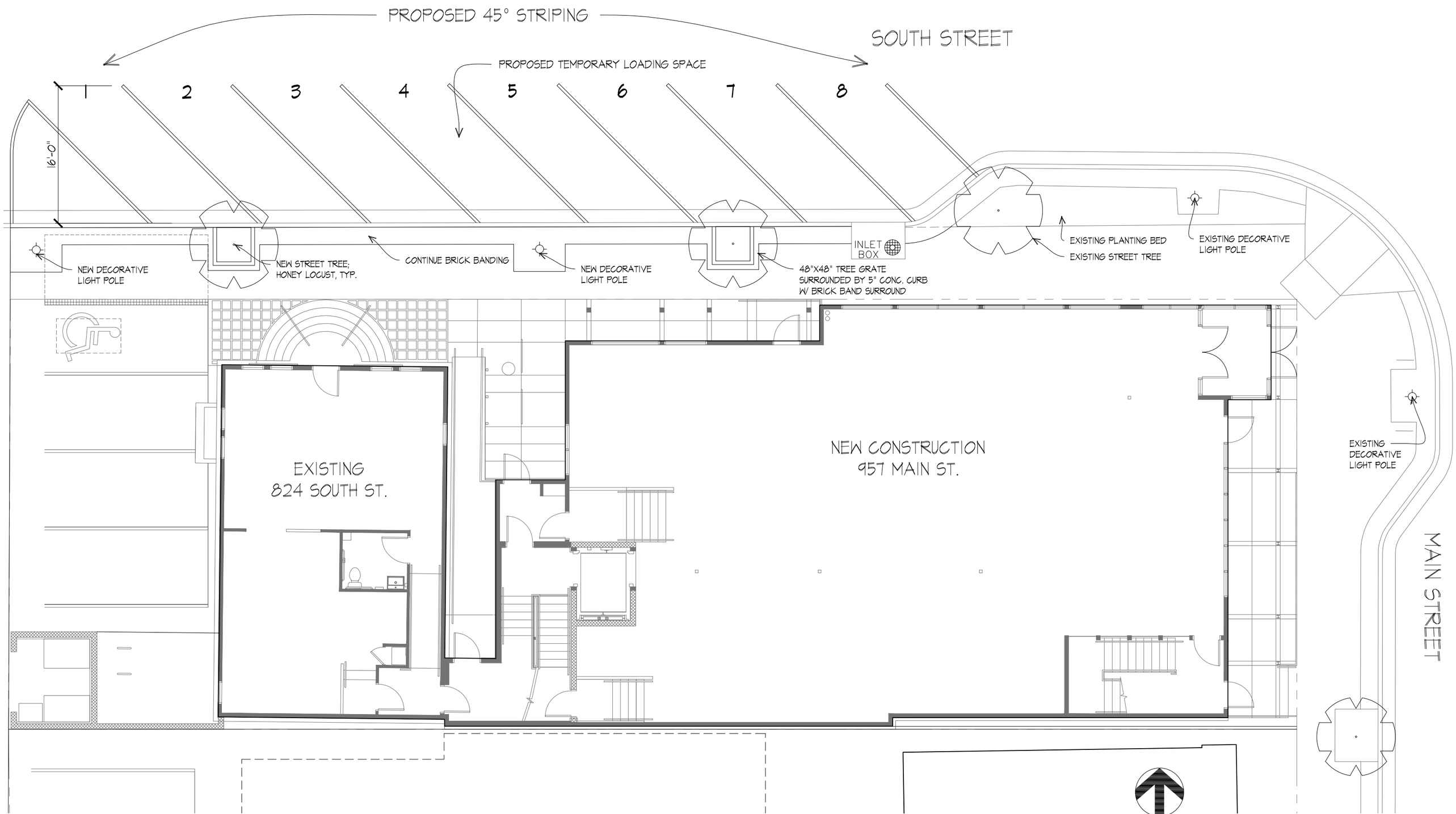
| | |
|---|---|
| $ 205,462 | Construction Cost (Breakdown of construction costs is attached) |
| $ 18,780 | Soft Costs (Professional Fees + $4,000 Estimated city taxes & fees) |
| $ 25,000 | Estimated Xcel Cost - Pole relocate, Extend 3-phase power, gas, etc. |
| $ 25,758 | Contingency |
| $ 275,000 | Total Estimated Cost |

## 824 South Main / 957 Main Street - Louisville Colorado

Symmetry Builders, Inc.

**August 21. 2019 (revised 1.27. 2020)**

| | R.O.W Break-Out | | | | |
|---|---|---|---|---|---|
| | unit | quantity | unit price | subtotal | totals |
| | Scope Quantities are based on Building Permit Documents dated July 15. 2019. Drawings C1.01, C1.02 & A1.00 | | | | |
| **Demolition:** | | | | | **$28,251** |
| o Sidewalk | sf | 2,026 | $2.89 | $5,855 | |
| o Asphalt Paving | sf | 2,700 | $2.23 | $6,021 | |
| o Abandon Sanitary Sewer | ls | 1 | $500.00 | $500 | |
| o Curb & Gutter | lf | 60 | $5.00 | $300 | |
| o Brick Pavers | sf | 445 | $35.00 | $15,575 | |
| **Earthwork / Site Prep:** | | | | | **$6,387** |
| o Subgrade Prep | ls | 1 | $3,360.00 | $3,360 | |
| o Fine Grading | sf | 2,242 | $1.35 | $3,027 | |
| **New Site Work:** | | | | | **$59,160** |
| o Layout & Survey | ls | 1 | $1,560.00 | $1,560 | |
| o Curb & Gutter (Incl. tree grate concrete curbs) | lf | 84 | $30.00 | $2,520 | |
| o Sidewalks | sf | 2,026 | $7.50 | $15,195 | |
| o Asphalt Patch | sf | 2,700 | $12.75 | $34,425 | |
| o Brick Pavers | sf | 156 | $35.00 | $5,460 | |
| **Site Utilities** | | | | | **$53,892** |
| o Layout & Survey | ls | 1 | $990.00 | $990 | |
| o Storm Sewer - Roof Drain | lf | 46.00 | $82.00 | $3,772 | |
| o Water - Domestic | lf | 42.50 | $118.75 | $5,047 | |
| o Water - Fire (incl. TC / Cut & Patch etc.) | ls | 1.00 | $26,813.00 | $26,813 | |
| o Sanitary Sewer | lf | 77.00 | $60.00 | $4,620 | |
| o Sanitary Sewer - Grease Line | lf | 62.00 | $75.00 | $4,650 | |
| o Traffic Control (Allowance) | ls | 1.00 | $8,000.00 | $8,000 | |
| **Landscaping** | | | | | **$8,464** |
| o Tree Grates 48" x 48" | ea | 2 | $3,050.00 | $6,100 | |
| o Trees - Honey Locust | ea | 2 | $989.50 | $1,979 | |
| o Drip irrigation to new trees | ls | I | $385.00 | $385 | |
| **Others** | | | | | **$15,730** |
| o Bike Racks (in ROW) | ls | 1 | $2,250.00 | $2,250 | |
| o Relocate Power Pole | ls | 1 | $0.00 | $0 | |
| o Decorative Lights / Poles | ea | 2 | $4,250.00 | $8,500 | |
| o Power Stub ups to trees | ls | 1 | $2,500.00 | $2,500 | |
| o South Street pavement Markings | ls | 1 | $480.00 | $480 | |
| o ROW Permit Fee's (Allowance) | ls | 1 | $2,000.00 | $2,000 | |
| **SUBTOTAL Hard Costs** | | | | | **$171,884** |
| o CM/GC General Conditions | | 5.36% | | $9,213 | |
| o CM/GC Overhead & Fee | | 7.25% | | $12,462 | |
| o CM/GC Insurance (GL / BR) | | 1.05% | | $1,805 | |
| **TOTAL Construction Costs** | | | | | **$195,363** |
| **CM/GC, Soft & Development Costs** | | | | | **$10,099** |
| o Design / Engineering / Planning | | 0.00% | | $0 | |
| o Permitting & Use Taxes | | 0.00% | | $0 | |
| o Weather Related Premium Allowance | | 0.75% | | $2,754 | |
| o Development & Escalation Contingency | | 2.00% | | $7,345 | |
| **TOTAL Development Costs** | | | | | **$205,462** |




# PROPOSED SOUTH STREET STREETSCAPE

1" = 10'-0"

HADCO by signify

# Urban

## R34

## Refractive Post top

824 South St.

Project:

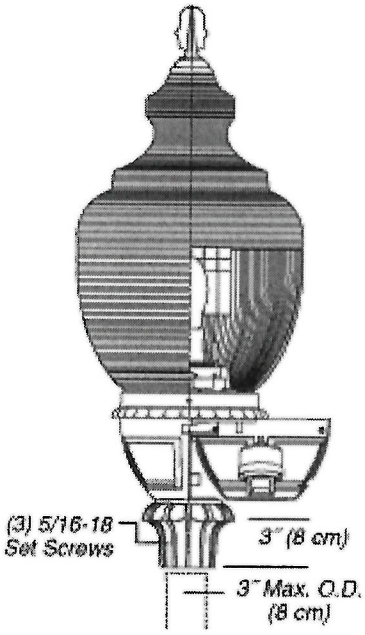
Location:

Cat No.

Type.

Lamps: Qty.

Notes:



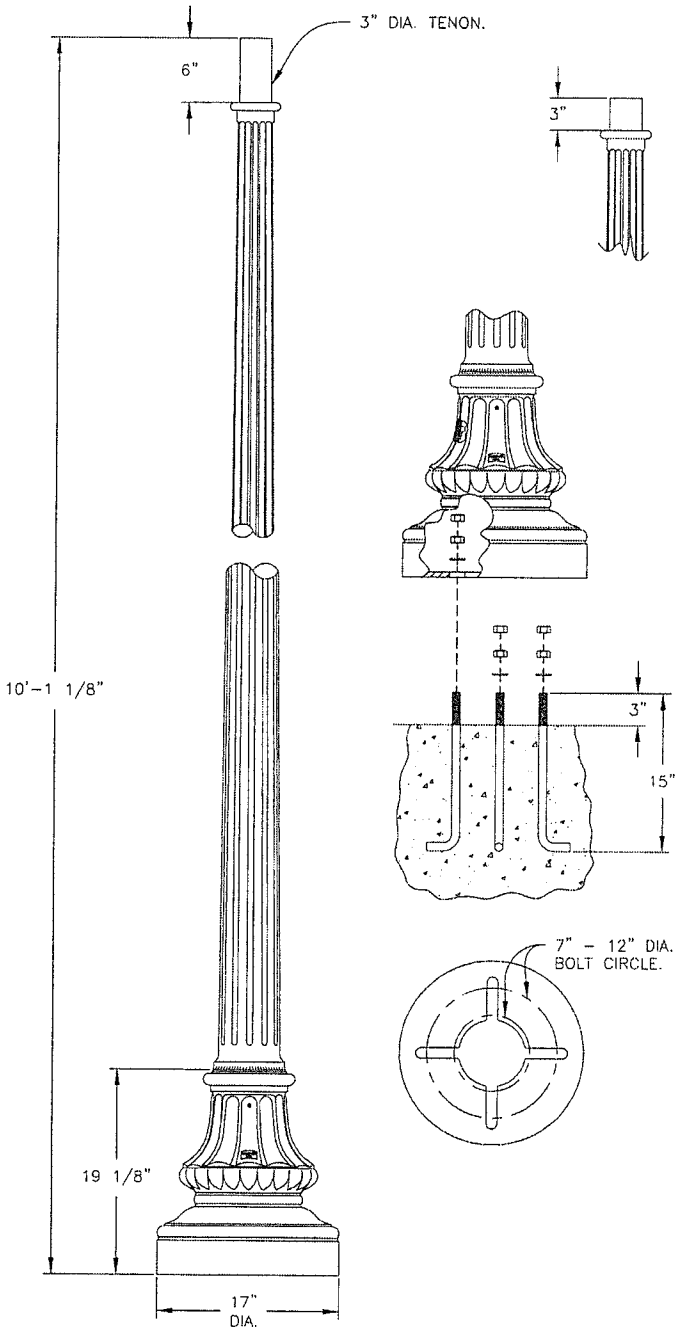

## Ordering Guide

Example: R34 A A B A 1 A D N D 70H E

| Product Code | R34 | Refractive | |
|---|---|---|---|
| Fitter/Pod | A | Octagonal Style | |
| | B | Round fitter w/ scalloped petals | |
| | C | Fluted tapered hourglass | |
| | D | Smooth tapered hourglass | |
| | E | Tapered fluted w/ scalloped petals | |
| | F | Short round fluted | |
| | G | Tall round fluted | |
| | H | Round contemporary | |
| | J | Tapered Fluted w/ round stepped fitter | |
| | L | Round fluted long | |
| | T | Decorative Leaf w/ scalloped petals | |
| Roof | A | Victorian | |
| | B | Acorn | |
| | C | Tall | |
| | D | Short | |
| | G | Adams | |
| Cage / Band | B | Cage for Wide Body Globe | *1 |
| | E | Band for Wide Body Globe | |
| | F | Band for Wide Body Globe | |
| | G | Cage for Wide Body Globe | *1 |
| | I | Cage for Wide Body Globe | *1 |
| | J | Cage for Wide Body Globe | *1 |
| | N | None | |
| Finial | A | A Finial | |
| | B | B Finial | |
| | C | C Finial | *2 |
| | D | D Finial | *2 |
| | E | E Finial | *2 |
| | F | F Finial | |
| | G | G Finial | |
| | H | H Finial | |
| | N | None | |
| Fasteners | 1 | Hex Head | |
| | 2 | Allen Head | |
| Finish | A | Black | |
| | B | White | |
| | G | Verde | |
| | H | Bronze | |
| | J | Green | |
| Reflector | D | Small Top Reflector | |
| | F | Small top reflector w/House-side shield | |
| | G | Full Top Reflector w/House-side shield | |
| | H | House Side Shield | |
| | L | Internal Louver Assembly | *3 |
| | T | Full Top Reflector | |
| | N | None | |
| Photo Control | N | None | |
| | B | Button Eye Photo Control | |
| | R | Twist-lock Receptacle | *4 |

# Anchor Base Post (305-) Specification Sheet

| Project Name: | Location: | MFG: Philips Lighting |
|---|---|---|
| Fixture Type: | Catalog No.: | Qty: |




## Ordering Guide

Example: 305- 10 ABS B B

| | | |
|---|---|---|
| **Product Code** | 305- | Anchor Base Post |
| **Height(s)** | 10<br>12 | (10 ft.)<br>(12 ft.) |
| **Finish** | ABS<br>ACP<br>ARD<br>ASI<br>BLK<br>BRN<br>BRZ<br>FGN<br>GRA<br>IRN<br>RBZ<br>SRT<br>VBZ<br>VCP<br>VGN<br>VTC<br>WBZ<br><br>WHT | Antique Brass<br>Antique Copper<br>Antique Red<br>Antique Silver<br>Black<br>Brown<br>Bronze<br>Forest Green<br>Granite<br>Ironstone<br>Rustic Bronze<br>Shadow Rust<br>Verde Bronze<br>Verde Copper<br>Verde<br>Vintage Copper<br>Weathered Bronze<br>White |
| **Photoeye (Optional)** | B<br>C | 120V<br>208V - 277V |
| **Outlet Location (Optional)** | B<br>T | 4" from Top of Base<br>12" from Top of Pole |

## Specifications



PHILIPS
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Philips Lighting Company 200 Franklin Square Drive, Somerset, NJ 08873 | P: +1-855-486-2216 | www.philips.com/luminaires

**SUBJECT:** **DISCUSSION/DIRECTION – APPLICATION FOR ASSISTANCE FOR 824 SOUTH, INC. FOR 957 MAIN STREET / 824 SOUTH STREET**

**DATE:** **FEBRUARY 12, 2020**

**PRESENTED BY:** **MEGAN E. PIERCE, ECONOMIC VITALITY DIRECTOR**

**SUMMARY:**
824 South, Inc. is the applicant for a rehabilitation and new construction project located at 957 Main Street / 824 South Street in downtown Louisville. The project includes rehabilitation and renovation of an existing single family residential structure for commercial and/or hotel use, as well as construction of a new structure to adjoin the residential home. It is anticipated the new structure would be occupied by retail, restaurant or small café, potential boutique hotel, and/or office space. The project includes 10,847 of rentable square footage—approximately 2,137 square feet is part of the existing house.

Staff has reviewed the application and is seeking direction whether to prepare a redevelopment agreement for assistance with 824 South, Inc. The agreement would need to be acted upon by LRC at a future meeting, approved by City Council, and finally approved by LRC.

**BACKGROUND:**
The subject project, located at the southwest corner of Main Street and South Street, has an existing residential structure at the rear of the property, close to the alley. The rest of the lot was previously undeveloped and served as the residence's yard. An original Planned Unit Development (PUD) and Special Review Use (SRU) was approved in 2016 to allow construction of a new two-story commercial structure in the front portion of the lot and keep the residential structure. The property was sold in 2018 to the current owner, who then received approval of a SRU and PUD Amendment that expanded the area for outdoor sales and dining and made modifications to the exterior of the structure. A building permit was issued in November 2019. Additionally, in January 2020, the applicant received approval of a SRU to allow for a hotel use on the property, either the first and/or second floor, along with incidental commercial uses (lobby or café area).

Not including the land purchase and holding costs, the redevelopment of this site has a cost in the range of $4.313 to $4.443 million. 824 South, Inc. is requesting assistance for public infrastructure improvements and utilities, as planned site work includes reconstruction of sidewalks, curb and gutter, alley drive pan, and on-site patio areas, in addition to removing and replacing inadequate utilities and converting parallel parking along South Street to angled spaces.

As reflected in the attached materials, the applicant is seeking $261,742 in assistance for improvements.

**DISCUSSION:**
The LRC generally reviews applications for public infrastructure improvement assistance against three goals:

- Removal of blight factors;
- Positive effect on property values; and
- Advancement of the Urban Renewal Area (URA).

The following analysis of the project in relation to the goals does not detail the planning related components, since the project has already received its PUD and SRU approvals and construction is underway. There is a time sensitivity to the LRC's consideration of assistance, since the project would envision constructing ROW and utility improvements early in the spring.

*Removal of Blight Factors:*
The 2006 Louisville Highway 42 Revitalization Area Conditions survey identified properties that contributed to the blight conditions present in the area, as follows:

a. Deteriorating Structures
b. Faulty Street Layout
c. Faulty Lots
d. Unsanitary/unsafe Conditions
e. Deteriorating Site or other improvements
f. Unusual Topography or Inadequate Public Improvements
h. Danger to Life or Property from Fire or Other Causes
k.5 High Service Requirements or Site Underutilization

The Conditions Survey identified 824 South Street contributing to two of the identified blight factors: (A) Deteriorating structures and (F) Unusual topography or inadequate public improvements. During the Conditions Survey, this was an aging single family residential home; it was also noted the property had unusualness or inadequacy in the street pavement and overhead utilities.

The application for 824 South, Inc. identified eight of the eleven blighting factors they believed to be present at the property. Outside of the two identified in the 2006 Conditions Survey, they site:

- (C) Existing structure is located on west side of lot, away from Main Street, with fenced yard on this important commercial corner.
- (D) 2-3 Underground structures used as cisterns, grease traps or wells. Sanitary sewer is connected to the neighboring property.
- (E) Existing sidewalk and alley drive pan are deteriorated and in need of repair.
- (H) Existing building does not have fire sprinklers and is not adequate for commercial use in current state.

- (I) Residential structure is in poor repair with failing foundation walls, inadequate wood framing, and failing stucco and roof.
- (J) House had asbestos and mold that required mitigation.

Staff concurs with the presentation and description of blight factors, except as related to Factor H. Since it exists as a residential structure currently, it would not have required fire sprinklers and therefore did not pose a higher risk of fire.

*Positive Effect on Property Values:*
The project when completed will have significant positive impact on property value. It is currently valued only as a single family residential structure. According to Boulder County property records, the building's current value is $549,000, with an assessed value of $39,254. The property tax estimate is $3,621.26.

Given the land cost and estimated construction costs, as well as the re-valuation of the property as "commercial," this redevelopment will have an overall positive effective on property values in the URA.

*Advancement of the URA:*
The 2006 Highway 42 Urban Renewal Plan's purpose is described as follows:

> *The purpose of the Highway 42 Revitalization Area Urban Renewal Plan is to reduce, eliminate and prevent the spread of blight within the Urban Renewal Area and to stimulate growth and reinvestment within the Area boundaries, on surrounding blocks and throughout downtown. In particular, this Urban Renewal Plan is intended to promote local objectives with respect to appropriate land uses, private investment and public improvements provided that the delineation of such objectives shall not be construed to require that any particular project necessarily promote all such objectives. Specifically, the Plan promotes an environment which allows for a range of uses and product types which can respond to market conditions over time; further the goals and objectives of the Louisville Comprehensive Plan, Highway 42 Framework Plan and any other relevant policy document; and, leverage the community's investment in public improvement projects in the Area.*
>
> *While the principal goal of the urban renewal effort is, as required by the Act, to afford maximum opportunity, consistent with the sound needs of the City of Louisville (the "City") as a whole to redevelop and rehabilitate the Area by private enterprise, it is not intended to replace the efforts of area business development or marketing organizations.*
>
> *The rehabilitation and redevelopment of properties within the Urban Renewal Area will be accomplished through the improvement of existing structures and infrastructure, attraction of new investment and reinvestment, and prevention of*

*deterioration of properties in the Area. The effort will involve the Commission and City with participation and cooperation by the private sector.*

The Plan's purpose clearly states the desire eliminate blight and to stimulate growth and reinvestment. This project would be a significant reinvestment in downtown of over $4.3 million and would also bring new retail and restaurant opportunities. The potential boutique hotel would also bring a use that does not currently exist in downtown.

The Highway 42 Urban Renewal Plan also includes Development and Design Objectives as follows:

*The development objectives for the Urban Renewal Area include establishment of a variety of uses that will allow projects to respond to changing market conditions. Proposed land uses within the Urban Renewal Area include commercial, office, residential, commuter, public, and parking. Design objectives for the Urban Renewal Area also promote flexibility, adaptability to a range of uses and product types and consistency with prevailing market conditions. Other objectives include:*

*a) Eliminate and prevent blight*
*b) Improve relationship between this area and surrounding areas (neighborhoods, downtown, open space)*
*c) Increase property values*
*d) Provide uses supportive of and complementary to planned improvements (transit)*
*e) Encourage a mix of uses and/or mixed-use projects*
*f) Promote a variety of products to address multiple income segments*
*g) Provide ease of vehicular and pedestrian circulation and improve connections*
*h) Encourage continued presence of businesses consistent with the plan vision*
*i) Provide a range of financing mechanisms for private property re-investment and investment*
*j) Mitigate impacts from future transportation improvements*
*k) Encourage public-private partnerships to implement the plan*
*l) Adjust parking ratios to reflect future densities*
*m) Encourage shared parking among projects in area*
*n) Develop higher design standards including flexible lighting and signage standards*
*o) Landscape streetscapes to unify uses and plan components*

From Staff's review, the proposed project meets many Objectives, as outlined below:

- Addresses seven blighting factors;
- Enhances downtown with additional commercial space;
- Raises future property values well above current level;

- Provides space for multiple small businesses and diverse use types;
- Enhances the pedestrian connectivity through new sidewalks and streetscape features;
- Acts as a public-private partnership for the LRC; and
- Meets the Downtown Design Guidelines.

Staff finds the Terraces on Main project meets the intent of the Highway 42 Urban Renewal Plan and advances its goals.

**RECOMMENDATION:**
Staff finds that the 824 South, Inc. proposed project advances the goals of the Highway 42 Urban Renewal Plan and satisfies the LRC's goals for assistance. We recommend the LRC instruct us to prepare a redevelopment agreement with 824 South, Inc. to assist in the public infrastructure and utility work for the property at 957 Main / 824 South Street.

Barbie Iglesias (owner) and Erik Hartronft (architect and representative) will be present at the LRC meeting for the discussion of the project application.

The applicant has also inquired as to whether the process can be expedited in order to present a potential agreement to City Council at the March 3 regular meeting. If desired, the LRC should also identify a time for a special meeting to review the draft redevelopment agreement.

**ATTACHMENTS:**
- 824 South, Inc. Application for Assistance

**SUBJECT:** **DISCUSSION/DIRECTION – PUBLIC INFRASTRUCTURE ASSISTANCE AGREEMENT WITH 824 SOUTH, INC.**

**DATE:** **MARCH 11, 2020**

**PRESENTED BY:** **MEGAN E. PIERCE, ECONOMIC VITALITY DIRECTOR**

**SUMMARY:**
On February 12, the LRC reviewed 824 South Inc.'s application for assistance with public infrastructure and utility improvements at 824 South Street / 957 Main Street in downtown Louisville. In converting an existing residential structure and constructing a new building, the project will bring new commercial uses to downtown such as retail, restaurant or small café, potential boutique hotel, and/or office space. LRC was supportive of the request for assistance and directed staff to prepare an agreement for discussion.

**DISCUSSION:**
The LRC reviewed the application for assistance against three goals: 1) Removal of blight factors; 2) Positive effect on property values; and 3) Advancement of the Urban Renewal Area (URA). Specifically, the conversation focused on the work in the public Right-of-Way (ROW) for which the applicant provided description and estimated costs, including:

- Installing new sidewalks, curb and gutter, and alley pan;
- Adding brick paving accents, street trees in tree grates, and decorative street lights in conformance with the Downtown streetscape program;
- Cutting and patching street and alley for utility improvements and extensions;
- Removing non-conforming utilities; and
- Providing adequate power and gas from off-site.

While we originally planned to address this agreement at a special meeting in February, staff has been working with the City Attorney and the applicant on a revised agreement structure. Prior agreements for assistance structured rebates to be repaid over a period of years as the value of the particular property requesting assistance increased in value. Since this assistance is only for public improvements and utilities, staff recommends it should not be tied specifically to the increase in property value that would necessitate the applicant waiting numerous years for rebates. Also, the LRC has funds to sufficient to rebate these costs as the work is done and approved.

Please note that the amount of the request has increased slightly through the revision process, from $261,742 to $275,000, to accommodate additional contingency and make that the assistance cap. The applicant is required to meet the City's standards for the work, to obtain appropriate warranties, and submit the improvements for inspection and approval. The City would then rebate according to the actual invoice, up to the

$275,000. As the applicant is providing the project warranty, the agreement outlines the LRC will provide the financial guarantee ($275,000 multiplied by 1.15). After the warranty period expires, the additional 1.15 of the guarantee would go back to the LRC if it had not been used.

Based on a Commissioner suggestion, the applicant has agreed to incorporate additional stubs for the electrical conduit that could accommodate future electric vehicle charging station installations. The conduit will already be installed for the decorative and holiday lighting. Another Commissioner suggestion was around the location of the planned sewer utility improvements—to locate the sewer under concrete rather than the brick banding and also to change the angle of the sewer bends. The applicant reviewed these suggestions and informed staff it would add $32,000 of project costs. Staff directed the applicant to not include these changes, so as not to raise the cost of the requested assistance significantly.

Commissioners requested additional information related to the project's financial benefit to the City. A significant benefit to the City and the URA will be the re-valuation of the property as a commercial structure. The property at 824 South Street is currently valued only as a single family residential structure. According to Boulder County property records, the building's current value is $549,000, with an assessed value of $39,254 (property tax estimate is $3,621.26). The redevelopment of the property also generates Building Permit Fees and Construction Use Tax, for a project the applicant states is valued at between $4.31 and $4.44 million.

To provide some comparison, staff looked at newer commercial buildings in downtown that have a mix of uses. The existing residential structure has a current value of about $71 per square foot. 950 Spruce Street is a two-story commercial building (19,796 square feet) that includes retail and office uses; it is currently valued at approximately $177 per square foot. Koko Plaza at 901 Front Street is also a two-story commercial building (35,086 square feet) that includes restaurant, retail, office, and service uses; it is currently valued at approximately $208 per square foot.

Since the applicant is still entertaining a variety and mix of potential uses for the project, detailed revenue projections are not feasible at this point. It is likely that the ultimate mix of tenants will be subject to a variety of the City's established taxes, including:

- City Sales/Use Tax- 3% (plus Open Space Tax- 0.375%, Historic Preservation Tax- 0.125%, and Recreation/Senior Center Tax- 0.15%)
- Consumer Use Tax- 3% (plus Open Space Tax- 0.375%, Historic Preservation Tax- 0.125%, and Recreation/Senior Center Tax- 0.15%)
- Lodging Tax- 3%

Consumer Use Tax is payable on taxable items for which Louisville Sales Tax is not paid. The City's Lodging Tax only applies to actual lodging receipts. Working with the applicant, we reviewed two potential scenarios for the project, which are outlined below.

- Scenario 1: Boutique Hotel (9 Rooms), including 4,355 SQ FT of Hotel Areas and Rooms, 1,609 SQ FT of Café/Food & Beverage Retail, and 776 SQ FT of Retail Tenant
- Scenario 2: Office and Retail, including 1,609 SQ FT of Café/Food & Beverage Retail, 2,093 SQ FT of Retail Tenant, and 3,038 SQ FT of Office Tenants

Looking at retail businesses in the Downtown selling general merchandise, the average annual Sales Tax revenue to the City collected for those business types in 2019 was approximately $9,900. The actual revenue for a retail tenant is highly dependent on the type of merchandise, success of the retailer, and total square footage really dedicated to sales.

Staff also reviewed similar café and food and beverage retailers in Downtown and in the McCaslin Corridor that are not focused on sit-down meals. On average in 2019, those businesses produced about $34,600 in Sales Tax revenue. Again, there would be significant variation depending on the size of the space, the amount of carry-out vs. in-person dining, and the price point of the food.

Louisville also collects both Lodging Tax and Sales/Use Tax from its six hotels. Unfortunately comparisons here on revenue will be difficult, since the size of the existing hotels range from approximately 60 to 150 rooms—among the six averaging 94 rooms each. On average, those six hotels paid $75,785.61 in Lodging Tax for 2019 (total $454,713.68). If you take that on a per room basis, each room generated about $802 of Lodging Tax revenue last year. Using that estimated average alone, seven to nine hotel rooms would generate between $5,614 and $7,218 in Lodging Tax to the City. In addition, the City collects Sales and Use Tax from hotels.

Project representative and architect Erik Hartronft plans to be at the LRC meeting to answer any additional questions.

**RECOMMENDATION:**
Discuss the agreement for public infrastructure assistance with 824 South, Inc. and provide direction on advancing this agreement to the City Council.

Staff anticipates the agreement could be presented for Council consideration at the March 17 Regular Meeting. The LRC should also provide direction as to whether it wishes to have a special meeting to approve the agreement before its next meeting on April 8.

**ATTACHMENTS:**
- Agreement for Public Infrastructure Assistance with 824 South, Inc.

# CITY COUNCIL COMMUNICATION
## AGENDA ITEM 8A

**SUBJECT:** **APPOINTMENT OF PRESIDING MUNICIPAL JUDGE AND DEPUTY MUNICIPAL JUDGES**

**DATE:** **MARCH 17, 2020**

**PRESENTED BY:** **LEGAL REVIEW COMMITTEE**
**COUNCILMEMBER LEH**
**COUNCILMEMBER BROWN**
**COUNCILMEMBER FAHEY**

**SUMMARY:**
In September, 2019 Presiding Municipal Judge Kristan Wheeler gave notice she would be leaving her position. On October 1, the City Council approved a contract with Judge David Thrower to be the Interim Municipal Judge through February 29, 2020. That contract was extended to April 30, 2020 to allow more time to recruit for the position.

The Court is also currently without a Deputy Judge as Judge Thrower was acting in that capacity under Judge Wheeler. The Legal Review Committee recommends the Council appoint two deputy judges to allow more flexibility at the Court.

Following a 30-day advertising period, staff received 30 applications for the positions. On February 25, members of the Legal Review Committee met to review all of the applications and pick candidates to interview. On March 9, the Committee along with City Manager Balser, City Attorney Kelly, and City Clerk Muth interviewed five finalists.

Following those interviews, the Committee recommends the City Council appoint David Thrower to continue as Presiding Municipal Judge. The Committee also recommends the Council appoint Robert Gunning and Karolyn Moore as Deputy Municipal Judges. All appointments would be for terms beginning May 1, 2020 and ending December 31, 2021.

Should Council approve these appointments, staff will bring back contracts for approval at the April 7 meeting and all appointees would be sworn in at the April 21 meeting.

**FISCAL IMPACT:**
At the December 17, 2019 City Council meeting the compensation of the Presiding Judge was set at $33,600 per year and the Deputy Judge compensation set at $140 per hour. Those costs are already included in the 2020 budget.

**PROGRAM/SUB-PROGRAM IMPACT:**
The appointments in the Court help the City meet the goal of having a justice system that is fair, effective, and efficient.

**RECOMMENDATION:**
Appoint David Thrower as Presiding Municipal Judge effective May 1, 2020 and appoint Robert Gunning and Karolyn Moore as Deputy Municipal Judges effective May 1, 2020.

**ATTACHMENT(S):**
1. Thrower Application
2. Gunning Application
3. Moore Application

**STRATEGIC PLAN IMPACT:**

| | | | |
|---|---|---|---|
| ☐ | **Financial Stewardship & Asset Management** | ☒ | **Reliable Core Services** |
| ☐ | **Vibrant Economic Climate** | ☐ | **Quality Programs & Amenities** |
| ☐ | **Engaged Community** | ☐ | **Healthy Workforce** |
| ☐ | **Supportive Technology** | ☐ | **Collaborative Regional Partner** |

# APPLICATION FOR LOUISVILLE, COLORADO MUNICIPAL COURT JUDGESHIP AND TWO DEPUTY MUNICIPAL COURT JUDGESHIPS

***The information you provide in the application is public information and will be released upon request if the applicant's name is forwarded to the Louisville City Council as a finalist for consideration of appointment. All positions will be independent contractors working for the City of Louisville.***

**PLEASE MARK WHICH POSITIONS YOU ARE INTERESTED IN APPLYING FOR:**

☒ **Presiding Judge** ☐ **Deputy Judge (2)** ☐ **Either Position**

## A. PERSONAL INFORMATION

1. Full Name: David Jay Thrower
2. Are you able to work in the United States on a full-time basis? Yes
3. Are you an attorney at law admitted to practice in Colorado? Yes
   If so, what is your Attorney Registration Number? 24815
4. Current work address: 2060 Broadway, Suite 400, Boulder, CO 80302
5. Best telephone number at which to reach you: 303-589-4601
6. List your place of residence for the past five years:

| Dates | City | State | County |
|---|---|---|---|
| 7/2/2002-Present | Superior | CO | Boulder |
| 7/1996-7/2/2002 | Louisville | CO | Boulder |

## B. EDUCATIONAL BACKGROUND

7. List the names and locations of schools attended, beginning with high school.

| Name | Location | Dates Attended | Degree |
|---|---|---|---|
| Arvada High School | Arvada, CO | 8/1984-5/1987 | H.S. Diploma |
| Colorado College | Colorado Springs, CO | 6/1987-5/1991 | B.A. |
| Creighton University School of Law | Omaha, NE | 8/1991-5/1994 | J.D. |

## C. PROFESSIONAL BACKGROUND AND EXPERIENCE

8. List all courts in which you have been admitted to practice, with dates of admission. Give the same information for administrative bodies which require special admission to practice.

| Bar Admission | Date |
|---|---|
| Colorado | 10/14/1994 |
| U.S. District Court for District of Colorado | 4/23/2001 |

**9.** Indicate your present employment (list professional partners or associates, if any, and include dates). If you currently practice law, describe the nature of your present law practice, listing the major types of law you practice and the percentage each constitutes of your total practice.

**Managing Shareholder and Attorney, Dietze and Davis, P.C**. Please see attached letterhead for a list of my colleagues. My practice consists mainly of serving as Presiding Judge in 4 municipalities, and Interim Presiding Judge in the City of Louisville, all of which comprises approximately 60 percent of my time. Since I serve as a judge and am subject to appeal in 3 counties, the remaining portion of my practice does not include litigation in state courts, rather 30 percent is estate planning, and the remainder is entity formation and real estate.

**10.** If you have focused on any specific area of law listed in number 9, what is it?
My background in municipal law, including 5 years as general counsel and 13 years as a prosecutor, led me to focus on municipal judicial services. Specifically, I focus on providing exemplary services to municipalities as a municipal court judge. To accomplish this, I have been active in the Colorado Municipal Judges Association and currently serve as its Vice President and Education Chair. I coordinated and moderated CMJA's Fall Conference and planned the 2020 Spring Conference. I attend monthly CMJA planning and educational meetings and have met with community stakeholders such as Boulder County Restorative Justice, Estes Valley Restorative Justice Partnership and the University of Colorado Restorative Justice and Basics Alcohol program coordinators. I also attended various meetings of Boulder County municipal judges and led an interdisciplinary meeting between judges and Boulder County's corrections officials.

**11.** Have you practiced in the trial courts of Colorado within the past five years? If so, please state what percentage of your total practice was comprised by trial practice and the types of matters you handled.
Since I serve as a judge in municipalities in Boulder, Larimer and Weld Counties, I take the position that I should not engage in litigation in district courts of those jurisdictions due to the fact that I am subject to appellate review. Therefore, the majority of my trial practice over the past 5 years has been in courts over which I preside as judge. I have conducted thousands of arraignments, motions hearings, and trials of ordinance violations, criminal and traffic matters. My trial practice as a judge comprises 60 percent of my professional time.

**12.** Summarize your experience presiding over or serving as an advocate in adversary proceedings before administrative boards or commissions.
I spent 6 years as a criminal defense and family law attorney, 13 years as a municipal prosecutor, and nearly 6 years as a municipal court judge. My defense experience was in the Denver Drug Court, where my firm was appointed in conflict cases. I also took private cases in municipal courts throughout the Front Range. After moving to Dietze and Davis, P.C., I appeared in county and district courts in the areas of civil litigation and F.E.D. In addition, I spent 13 years as municipal prosecutor, both in Superior and as a backup prosecutor in Louisville. I have a broad range of experience on both sides of municipal court and in litigation in general. Since 2014, I have served as a municipal judge, presiding in Superior, as a deputy in Louisville, and since 2018, as Presiding Judge in 3 additional municipalities. Currently, my courts meet on a schedule which allows me ample time for each of them, and I have flexibility to schedule additional dockets as necessary.

**13.** List your prior professional or business employment since completion of your formal education (include dates).

**Co-Founder and Attorney, Frankel and Thrower, P.C.** 1995-2001
**Associate Attorney, Dietze and Davis, P.C.** 2001-2003
**Shareholder, Dietze and Davis, P.C.** 2003-Present
**Interim Presiding Municipal Judge, City of Louisville**, 2019-Present
**Deputy Municipal Judge, City of Louisville**, 2016-2019
**Presiding Municipal Judge, Town of Superior**, 2014-Present
**Presiding Municipal Judge, Town of Estes Park** 2018-Present
**Presiding Municipal Judge, Town of Mead**, 2018-Present
**Presiding Municipal Judge Town of Nederland**, 2018-Present

**14.** If you have not been employed continuously since completion of your formal education, provide the dates and for each period, describe generally what you were doing.

Prior to establishing Frankel and Thrower, P.C. in 1995, I was the volunteer intake attorney for Boulder County Legal Services in 1994. I was responsible for intake at the Longmont outreach, which was in the office of the Longmont Coalition for Women in Crisis. I gave legal advice to clients on everything from landlord tenant law, domestic relations, estate planning, and protective proceedings for victims of violence.

## D. PROFESSIONAL, COMMUNITY, AND PUBLIC SERVICE

**15.** List activities in professional associations, including offices held, committees, awards, honors, and citations (include dates).

**Director/Vice President:** *Board of Colorado Municipal Judges Association 2017-Present*
Appointed as a Director in April 2017. Currently Vice Present and Chair of Education. Active in the CMJA's Policy and Legislative subcommittee which meets on a monthly basis to discuss legislation and best practices. Also led an interdisciplinary committee of municipal judges and jail administrators to implement recent jail delay legislation. Planned and hosted Fall 2019 CMJA Conference. Elected Treasurer April 2018, Vice President April 2019.

**Member:** *Colorado Municipal Judges Association 2014-Present*
Affiliated immediately upon being appointed a municipal judge, have attended bi-annual conferences and serve as a volunteer Board and committee member.

**16.** List your recent activities in civic and charitable organizations, including offices held, awards, honors, and citations (include dates).

**Director:** *Tru Community Care – Founded as Boulder County Hospice in 1976, 2018-Present*
Appointed to the Board of Directors in April 2018 and serve as part of the governing body of this non-profit hospice and care organization.

**Presenter:** *JD Pathways, University of Colorado School of Law, 2015, 2016, 2017, 2020*
Participated on a panel of attorneys instructing first year law students on the economics of practicing law.

**Presiding Judge:** *Collegiate Mock Trial Regional Rounds*
Presided over 2 rounds of Mock Trial in 2017 and 2018.

**17.** List all public offices to which you have been appointed or elected (include dates served).

**Interim Presiding Municipal Judge, City of Louisville**, 2019-Present
**Deputy Municipal Judge, City of Louisville**, 2016-2019
**Presiding Municipal Judge, Town of Superior**, 2014-Present
**Presiding Municipal Judge, Town of Estes Park** 2018-Present
**Presiding Municipal Judge, Town of Mead**, 2018-Present
**Presiding Municipal Judge Town of Nederland**, 2018-Present
**Prosecutor, Town of Superior**, 2001-2014
**Backup Prosecutor, City of Louisville**, 2007-2015
**Assistant Town Attorney, Town of Superior**, 2001-2005

**18.** Have you served in the military? If so, please provide the branch, dates of service, rank attained, and whether you received an honorable discharge.

No

## E. REQUIREMENT TO COMPLY WITH THE LOUISVILLE CITY CHARTER AND THE LOUISVILLE CITY CODE

***If appointed to the bench, you will be required to comply with the provisions of contained in the Louisville City Charter and the Louisville Municipal Code***

**19.** Do you understand a judge is required to file reports of compensation for quasi-judicial and extra-judicial activities in conformance with the Code of Judicial Conduct?

Yes

**20.** Do you understand that a judge must comply with and is subject to applicable provisions of Louisville City Charter and the Louisville Municipal Code, including but not limited to the provisions of Section 9-3 of the Charter setting forth principles of conduct for City municipal judges?

Yes

**21.** Do you understand that City of Louisville's ethics rules provide that independent contractors who perform official actions on behalf of the City which involve the use of discretionary authority shall not receive any gifts seeking to influence their official actions, that City officers and employees similarly shall not receive such gifts, and that you must abide by the gift restrictions and any other applicable provisions of the City's Code of Ethics?

Yes

## F. MISCELLANEOUS

**22.** A Louisville municipal judge is expected to use computer technology for a wide variety of functions including word processing, legal research, case management, e-filing and e-mail. Do you **personally use** a computer for any of the purposes listed above or for similar purposes? If yes, describe the functions you perform and state how frequently you perform each function. If no, state whether you will participate in training to develop and

maintain your personal skills in using computer technology.
I use a computer daily for all the tasks listed. I use a laptop on the bench in all of the jurisdictions where I serve as Presiding Judge. I understand the City of Louisville recently obtained new records and court software, and I requested any training available for that specific system.

**23.** List the names of no more than three individuals whom you have contacted and who have agreed to serve as professional references. If selected as a finalist, we will request you provide at least one letter of reference from someone who has knowledge of your legal work.

Matt Magley, Town Manager, Town of Superior, 303-499-3675;
Todd Jirsa, Mayor of the Town of Estes Park, 970-481-0915;
Mike Rafik, Esq. Criminal Defense Attorney, Boulder, Colorado, 303-444-9292.

**24.** Please attach a statement not to exceed one page in length, double-spaced, discussing the reasons why you wish to be appointed to this vacancy and the qualities you would bring to the bench if appointed.

## G. PROFESSIONAL CONDUCT AND ETHICS

**25.** Have you ever been disciplined or sanctioned for a breach or possible breach of ethics or unprofessional conduct by the Supreme Court Grievance Committee, the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, the Commission on Judicial Discipline (including a private letter of admonition, reprimand, or censure), or by any administrative agency or disciplinary committee? If so, please provide details.

No

**26.** Do you know if any proceeding is pending against you before the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, or by any administrative agency or disciplinary committee? If so, please provide details.

No

**27.** Have you ever been convicted (including by plea of guilty or *nolo contendere*) a felony, misdemeanor (including driving under the influence of alcohol or drugs, driving while ability impaired by alcohol or drugs), or a serious moving traffic offense in any jurisdiction within or outside Colorado? If so, please provide details.

No

**28.** Have you ever been a party to or the subject of, or involved in any other legal proceedings, civil or criminal (excluding dissolution or bankruptcy proceedings and non-moving minor traffic offenses)? If so, please provide details.

I was named as a co-defendant in a legal malpractice claim due to my status as the Managing Shareholder of Dietze and Davis, P.C. I had no involvement in the alleged malpractice, the claim against me was found to be without merit and was dismissed prior to disposition of the matter.

I have received traffic tickets for minor moving violations which include turning movements, and speeding, 10-19 over limit. To my recollection, I have had 4 such citations between 1985 and the Present. All tickets were traffic infractions of 4 points or less.

**29.** Have you ever been cited for contempt of Court? If so, please provide details

No

**30.** Is there any circumstance or event in your personal or professional life which, if brought to the attention of the City of Louisville, might tend to affect adversely your qualifications to serve on the Louisville Municipal Court? If so, please explain. N/A

No

**31.** Do you currently have a valid Colorado driver's license? If not, please provide details.

Yes

**32.** Has your driver's license ever been revoked or suspended? If so, please provide details.

No

## H. MISCELLANEOUS INFORMATION

**33.** Have you ever failed to file your state or federal income tax return? If so, please explain.

No

**34.** Have you been found by the Colorado Department of Revenue, IRS, or any other agency or court to have willfully failed to properly disclose your income during the last five years? If so, please give details.

No

**35.** Do you owe any unpaid taxes or past-due child support? If so, please explain.

No

## CERTIFICATE OF APPLICANT

I understand the submission of this application expresses my willingness to accept appointment to the position of presiding municipal judge, deputy municipal judge, or both for the City of Louisville, Colorado, as noted on page 1 of this application and my willingness to abide by the Louisville City Charter and the Louisville Municipal Code, if appointed. I hereby certify that the information given in this application is correct and complete.

Date: January 15, 2020

Signature of Applicant

David J. Thrower

Print or Type Name

**WAIVER**

I grant the City of Louisville, Colorado the right to examine the records of the Attorney Regulation Counsel (formerly maintained by the Supreme Court Grievance Committee) and the records of the Commission on Judicial Discipline. I consent to the release of information by employers, schools, law enforcement agencies, credit agencies, and other authorized personnel to verify the information contained in this application.

Date: January 15, 2020

Signature of Applicant

David J. Thrower
Print or Type Name

Please submit application by mail to:
City of Louisville
Attn: Meredyth Muth, City Clerk
749 Main Street
Louisville, CO 80027

*Or by email to:*
MeredythM@LouisvilleCO.gov

***Application Deadline: February 7, 2020 4 pm.***

DIETZE AND DAVIS, P.C.
ATTORNEYS AT LAW

*Serving the West from Boulder since 1972*

Robyn W. Kube
Karl F. Kumli, III*†
Carmen S. Danielson
David J. Thrower
Renée Ezer*
Stephen A. Closky
Tucker M. Katz
Mark D. Detsky
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Nathan A. Klotz
Nathaniel Gaffney
K.C. Cunilio

*Of Counsel:*
Joel C. Maguire
Star L. Waring
Nicholas G. Muller

Peter C. Dietze 1934-2019
Joel C. Davis 1936-2013

*Also admitted in California
†*Also admitted in New Mexico*

Statement of Interest and Qualifications

Helen (not her real name), a defendant in Louisville, was obviously nervous in the crowded courtroom. Charged with Careless Driving, she accepted the prosecutor's offer to reduce the charge and entered her guilty plea. As she appeared before me, she stated that she made a simple mistake and decided not to drive anymore due to her declining health. I reviewed Helen's record and asked, "Is this the first ticket you have ever received?" She answered yes, and I asked, "when did you begin driving?" 1959, she answered. I thanked her for her outstanding driving record, told her that she earned a suspended fine, and asked her to have a great day. By taking this action, I let Helen and the entire courtroom know that I listened, always considering each case as unique. Instead of simply imposing a scheduled fine and moving on, I accomplished something more for that entire court session and subsequent defendants. Most looked forward to a fair, positive experience and better appreciated the concept of justice and a fair judge.

I welcome observation and criticism. I am told my greatest strength as a judge is encouraging defendants, particularly juveniles, to invest in changing behavior, almost in collaboration with, rather than simply imposed by me. I am fair and capable of developing consequences, but at the same time dedicated to evidence-based sentencing to correct behavior. I believe judges must act with restraint and consideration, while maintaining the rule of law. In a judicial association meeting, colleagues heard me say that being appointed as a judge should not come at the expense of one's humanity. I stand by that statement.

I dedicated my professional life to the municipal bench since being appointed in 2014. I am prepared for court and strive to increase my knowledge of issues and the law through professional development with the Colorado Municipal Judges Association. I bring a bearing of professionalism, high standards and understanding to municipal court. Given that many people have their only contact with our justice system at the municipal level, I strive to make certain that defendants feel heard and that the system treats them fairly. I am passionate about working in a municipal court and setting an example of a fair justice system.

Louisville and Superior have been my home for the past 24 years and I am in a unique position to be invested in and care about this community as a resident of suburban east Boulder County. This is the place I intend to remain.

I appreciate the opportunity to continue serving the City of Louisville as I have since 2007.

## APPLICATION FOR LOUISVILLE, COLORADO MUNICIPAL COURT JUDGESHIP AND TWO DEPUTY MUNICIPAL COURT JUDGESHIPS

***The information you provide in the application is public information and will be released upon request if the applicant's name is forwarded to the Louisville City Council as a finalist for consideration of appointment. All positions will be independent contractors working for the City of Louisville.***

**PLEASE MARK WHICH POSITIONS YOU ARE INTERESTED IN APPLYING FOR:**

☐ **Presiding Judge** ☐ **Deputy Judge (2)** x **Either Position**

### A. PERSONAL INFORMATION

1. Full Name: Robert R. Gunning
2. Are you able to work in the United States on a full-time basis? Yes
3. Are you an attorney at law admitted to practice in Colorado? Yes
   If so, what is your Attorney Registration Number? 26550
4. Current work address: 1738 Pearl Street, Suite 300, Boulder, CO 80302
5. Best telephone number at which to reach you: (303) 482-5419
6. List your place of residence for the past five years:

| Dates | City | State | County |
|---|---|---|---|
| 1996-present | Louisville | CO | Boulder |
| | | | |
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### B. EDUCATIONAL BACKGROUND

7. List the names and locations of schools attended, beginning with high school.

| Name | Location | Dates Attended | Degree |
|---|---|---|---|
| Liverpool High School | Liverpool, NY | 9/83-5/87 | H.S Diploma |
| Binghamton University | Binghamton, NY | 8/87-5/88 | - |
| College of William & Mary | Williamsburg, VA | 8/88-5/90 | B.A. Government |
| UC Berkeley School of Law | Berkeley, CA | 8/90-5/93 | J.D. |
| University of Colorado, Boulder | Boulder, CO | 1/95-5/96 | Teaching Certificate |
| | | | |
| | | | |

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|---|---|---|---|
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## C. PROFESSIONAL BACKGROUND AND EXPERIENCE

**8.** List all courts in which you have been admitted to practice, with dates of admission. Give the same information for administrative bodies which require special admission to practice.

| **Bar Admission** | **Date** |
|---|---|
| California | 1994 |
| Colorado | 1996 |
| | |
| | |

**9.** Indicate your present employment (list professional partners or associates, if any, and include dates). If you currently practice law, describe the nature of your present law practice, listing the major types of law you practice and the percentage each constitutes of your total practice.

I co-founded Maxfield Gunning, LLP in April 2019. My law partner is Eric Maxfield. My law practice is described below:

- Relief Judge, Boulder Municipal Court (7/19 – present). **5%**
- Hearing Officer, Boulder County Board of Equalization (9/19-10/19).
- Adjunct Professor (State and Local Tax), University of Colorado Law School (Fall 2019 semester).
- Mediator, Accord Dispute Resolution Services (11/19-present). **25%**
- Volunteer mediator, Boulder County Small Claims Court (4/19-present)
- Volunteer mediator, City of Boulder Community Mediation Services (8/19-present).
- Represent individuals and business entities in employment, open records/open meetings, state and local tax, and civil litigation matters. **60%**
- Service as successor personal representative in probate litigation. **10%**

**10.** If you have focused on any specific area of law listed in number 9, what is it?

Since opening the firm, we have focused on employment law, which comprises about 30% of my practice.

**11.** Have you practiced in the trial courts of Colorado within the past five years? If so, please state what percentage of your total practice was comprised by trial practice and the types of matters you handled.

I have practiced in Colorado trial courts since co-founding Maxfield Gunning, LLP in April 2019. From 2013-2019, I served as a District Court Magistrate for the 20th Judicial District (Boulder).

About 50% of my current practice is comprised by trial practice before Colorado trial courts and administrative tribunals. Employment litigation comprises about half of this trial practice, with sunshine law litigation (Open Records Act and Open Meetings Law), state and local tax litigation, and general civil litigation comprising the balance.

The other 50% of my current practice includes service as a Relief Judge in the Boulder Municipal Court, as a Mediator with Accord ADR Group, as a Court-appointed Personal Representative, and providing advice to employees in employment law matters.

**12.** Summarize your experience presiding over or serving as an advocate in adversary proceedings before administrative boards or commissions.

My experience in adversary proceedings before administrative boards and commissions is extensive. In Fall 2019, I served as a Hearing Officer for the Boulder County Board of Equalization. From 2011-2013, I served as an Administrative Law Judge for the State Personnel Board and as a Hearing Officer for several County Boards of Equalization. As a litigator, I have tried hundreds of cases before the Colorado Board of Assessment Appeals (BAA), the Executive Director of the Colorado Department of Revenue, home rule city hearing officers, and the State Personnel Board. I have also participated in many hearings before County Boards of Equalization and County Boards of Commissioners. Lastly, I served as a member of the Louisville Local Licensing Authority from 2007-2013 and as a member of the Boulder County Planning Commission from 2010-2011.

**13.** List your prior professional or business employment since completion of your formal education (include dates).

**Colorado Judicial Department,** *District Court Magistrate*, Boulder, CO, 2/13 - 3/19

- Actively managed nearly one thousand civil cases on an annual basis.
- Conducted case management conferences and status conferences.
- Efficiently resolved discovery disputes through discovery dispute hearings.
- Heard and resolved domestic relations discovery disputes at request of District Court Judges.
- Conducted civil bench trials with consent of the parties.
- Initiated development of discovery dispute pilot project for personal injury actions (implemented by District Court Judges for 8/13-2/15).
  - Decreased dispute resolution time from average of 56 days to 17 days.
  - Reduced number of discovery disputes requiring court involvement.
  - Fostered culture of professionalism though interactive conferral requirement.
- Spearheaded expansion of discovery dispute procedure for all District Court civil actions (implemented by District Court Judges for 3/15 – present).
  - Requires interactive conferral, shortened briefing, discovery dispute hearings.
  - Developed to efficiently resolve discovery disputes and promote more informed decision-making.
- Assisted County Court by assuming responsibility for eviction return and name change dockets on a pilot project basis (August 2018-November 2018).
- Served on District's Self-Represented Litigant Coordinator Steering Committee and Technology Committee.
- Consistently received excellent performance reviews from external and internal evaluators.
- CLE presentations before various Boulder County Bar Association committees, Boulder County chapter of CCDB, and Colorado Bar Association.

**Colorado State Personnel Board,** Denver, CO, *Administrative Law Judge*, 2011 - 2013

- Served as an Administrative Law Judge on a 60% basis.

- Conducted evidentiary hearings, pre-hearing proceedings, and settlement conferences;
- Drafted and issued written initial decisions (findings of fact and conclusions of law), preliminary recommendations, and dispositive orders;
- Reviewed and promptly ruled on motions, including motions for summary judgment and discovery related motions;
- Proactively managed a busy docket;
- Performed peer review on colleagues' initial decisions and preliminary recommendations; and
- Received outstanding performance reviews for courtroom demeanor, quality of written decisions, case management skills, and alternative dispute resolution skills (through achievement of high settlement rate and stabilization of ongoing relationships between employers and employees).

**Robert R. Gunning, LLC,** Louisville, CO, *Principal*, 2011 – 2013

- Owned and operated a law practice on a 40% basis. This work included:
  - Service as a hearing officer for the Jefferson County Board of Equalization, Boulder County Board of Equalization and the City and County of Broomfield Board of Equalization;
  - Litigation of communication user tax matters before the Los Angeles Superior Court and the Los Angeles Board of Review; and
  - Property tax and sales tax litigation at the administrative level.

**Silverstein & Pomerantz,** Denver, CO, *Partner*, 2006 – 2011; *Of Counsel*, 2004 - 2006

- Successfully litigated hundreds of state and local tax appeals before Colorado District Courts, California Superior Courts, the Colorado Department of Revenue, Colorado Board of Assessment Appeals, Home Rule City Hearing Officers, and County Boards of Equalization.
- Significant written motion work; including motions for summary judgment, discovery motions, and prehearing statements.
- Substantial appellate practice, including participation in successful appeals before the Colorado Supreme Court, Colorado Court of Appeals, California Court of Appeals, Wyoming Supreme Court, and South Dakota Supreme Court.

**Boulder County,** Boulder, CO, *Assistant County Attorney*, 1999 - 2004

- Represented the Board of County Commissioners, Assessor, and Treasurer in property tax litigation before appellate courts, trial courts, and the Colorado Board of Assessment Appeals.
- Served as lead assistant county attorney for a six-month term, acting as liaison between office staff and management.

**Victor F. Boog, P.C.,** Lakewood, CO, *Associate*, 1996-1999

- Represented a wide variety of clients in a range of litigation matters before Colorado District Courts, County Courts, and administrative tribunals; with a focus on land use, real property, construction, property tax, and commercial litigation.
- Significant appellate practice before the Colorado Court of Appeals.

**Downey, Brand, Seymour & Rohwer,** Sacramento, CA, *Associate*, 1993-1994

- Performed legal research and drafted legal memoranda and briefs for the firm's environmental law/water rights group.

**14.** If you have not been employed continuously since completion of your formal education, provide the dates and for each period, describe generally what you were doing.

After voluntarily leaving private law practice in California in 1994, I moved to Colorado and enrolled in CU Boulder's Teacher Education Program. In spring 1996, I received my secondary social studies teaching certificate. As a student, I held a variety of part-time positions, including a research assistant position with the National Center for Atmospheric Research and a law clerk position with the Colorado Attorney General's Office (Office of Consumer Counsel).

## D. PROFESSIONAL, COMMUNITY, AND PUBLIC SERVICE

**15.** List activities in professional associations, including offices held, committees, awards, honors, and citations (include dates).

Adjunct Professor, University of Colorado Law School (Fall 2019)

Member, Boulder County Bar Association (2013 – present)

Member, Boulder County Bar Association Softball Team (Summer 2017)

Member, Colorado Bar Association, Legal Fee Arbitration Committee (2006 - 2013)

Member, Colorado Association of Commerce and Industry Tax Council (2004 - 2011)

Executive Council Member, Colorado Bar Association, Tax Section (2009 - 2011)

**16.** List your recent activities in civic and charitable organizations, including offices held, awards, honors, and citations (include dates).

Volunteer Mediator, Boulder Small Claims Court (4/19 – present)

Volunteer Mediator, City of Boulder Community Mediation Services (8/19 – present)

Volunteer, Trinity Lutheran Church, Second Sunday Lunch for those in need (2017 – present)

Volunteer, Sister Carmen Community Center (2015 – 2018)

Parent volunteer, Fireside Elementary School (2012 - 2013)

Parent volunteer, Korean Heritage Camp (2006 – 2017)

Pro Bono Attorney, Boulder County Legal Services and Metro Volunteer Lawyers (2003 – 2013)

Assistant baseball coach, Monarch Little League (2009 - 2013)

**17.** List all public offices to which you have been appointed or elected (include dates served).

Member, Louisville Local Licensing Authority (2007 - 2013) (Chairperson, 2011) (appointed by City Council)

Member, Boulder County Planning Commission (2010 - 2011) (appointed by County Commissioners)

**18.** Have you served in the military? If so, please provide the branch, dates of service, rank attained, and whether you received an honorable discharge.

No

## E. REQUIREMENT TO COMPLY WITH THE LOUISVILLE CITY CHARTER AND THE LOUISVILLE CITY CODE

***If appointed to the bench, you will be required to comply with the provisions of contained in the Louisville City Charter and the Louisville Municipal Code***

**19.** Do you understand a judge is required to file reports of compensation for quasi-judicial and extra-judicial activities in conformance with the Code of Judicial Conduct?
Yes

**20.** Do you understand that a judge must comply with and is subject to applicable provisions of Louisville City Charter and the Louisville Municipal Code, including but not limited to the provisions of Section 9-3 of the Charter setting forth principles of conduct for City municipal judges?
Yes

**21.** Do you understand that City of Louisville's ethics rules provide that independent contractors who perform official actions on behalf of the City which involve the use of discretionary authority shall not receive any gifts seeking to influence their official actions, that City officers and employees similarly shall not receive such gifts, and that you must abide by the gift restrictions and any other applicable provisions of the City's Code of Ethics?
Yes

## F. MISCELLANEOUS

**22.** A Louisville municipal judge is expected to use computer technology for a wide variety of functions including word processing, legal research, case management, e-filing and e-mail. Do you **personally use** a computer for any of the purposes listed above or for similar purposes? If yes, describe the functions you perform and state how frequently you perform each function. If no, state whether you will participate in training to develop and maintain your personal skills in using computer technology.

Yes, I personally use a computer on a daily basis. I use Word, Outlook, Excel, G-Mail, Google Calendar, Clio (law firm database), Casemaker (legal research), and Westlaw (legal research). As a Magistrate, I daily used JPOD case management software. As a Relief Judge with the Boulder Municipal Court, I occasionally access Full Court.

**23.** List the names of no more than three individuals whom you have contacted and who have

agreed to serve as professional references. If selected as a finalist, we will request you provide at least one letter of reference from someone who has knowledge of your legal work.

1) Hon. Linda Cooke
   Presiding Judge, Boulder Municipal Court
   1777 6th Street
   Boulder, CO 80302
   (303) 441-1842

2) Hon. Patrick Butler
   District Court Judge, 20th Judicial District
   1777 6th Street
   Boulder, CO 80302
   (303) 441-3792

3) Hon. Monica Haenselman
   District Court Magistrate, 20th Judicial District
   1777 6th Street
   Boulder, CO 80302
   (303) 441-3742

**24.** Please attach a statement not to exceed one page in length, double-spaced, discussing the reasons why you wish to be appointed to this vacancy and the qualities you would bring to the bench if appointed.

Please see attached cover letter.

Robert R. Gunning
Question # 24

Dear Louisville City Council Members:

I would welcome the opportunity to serve as either the presiding Municipal Court Judge or Deputy Municipal Court Judge for the City of Louisville.

I am seeking appointment as a Louisville Municipal Court Judge for several reasons. First, I am a 24-year resident of Louisville, and I wish to deepen my service to this wonderful community. Second, a Municipal Court Judge serves as the representative of the City. In my eight years of experience as a judicial officer, I have developed a reputation for a calm, patient, and professional demeanor in the courtroom that puts litigants at ease. Third, I have had the opportunity to serve as a relief Judge in the City of Boulder Municipal Court since July 2019. This experience has been fulfilling and rewarding, and I greatly look forward to the days I serve as a Municipal Court Judge.

I possess numerous qualities that are critical for these positions. As set forth in the attached application, I have eight years of experience as a District Court Magistrate and Administrative Law Judge. In both of these positions, I received excellent performance reviews from both internal and external evaluators, particularly for my communication skills. I developed a reputation for integrity, fairness, thoughtfulness, and diligence. Since co-founding a law firm in April 2019, I have gained experience as a relief Municipal Court Judge. I have presided over City of Boulder general offense arraignment, traffic, jail intake, minor in possession, and civil hearing dockets. This service has provided me with experience in ensuring that defendants understand their rights and the judicial process, and that litigants walk out of the courtroom feeling that justice was served.

Thank you for your time and consideration.

Sincerely,
*/s/ Robert R. Gunning*

## G. PROFESSIONAL CONDUCT AND ETHICS

**25.** Have you ever been disciplined or sanctioned for a breach or possible breach of ethics or unprofessional conduct by the Supreme Court Grievance Committee, the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, the Commission on Judicial Discipline (including a private letter of admonition, reprimand, or censure), or by any administrative agency or disciplinary committee? If so, please provide details.
No

**26.** Do you know if any proceeding is pending against you before the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, or by any administrative agency or disciplinary committee? If so, please provide details.
None

**27.** Have you ever been convicted (including by plea of guilty or *nolo contendere*) a felony, misdemeanor (including driving under the influence of alcohol or drugs, driving while ability impaired by alcohol or drugs), or a serious moving traffic offense in any jurisdiction within or outside Colorado? If so, please provide details.
No

**28.** Have you ever been a party to or the subject of, or involved in any other legal proceedings, civil or criminal (excluding dissolution or bankruptcy proceedings and non-moving minor traffic offenses)? If so, please provide details.

Yes. My wife and I adopted our two children through AAC Adoption Agency in Berthoud, CO, and we were therefore parties to two adoption decrees issued by the Larimer County District Court.

**29.** Have you ever been cited for contempt of Court? If so, please provide details
No

**30.** Is there any circumstance or event in your personal or professional life which, if brought to the attention of the City of Louisville, might tend to affect adversely your qualifications to serve on the Louisville Municipal Court? No. If so, please explain.

**31.** Do you currently have a valid Colorado driver's license? If not, please provide details. Yes

**32.** Has your driver's license ever been revoked or suspended? If so, please provide details.
No

## H. MISCELLANEOUS INFORMATION

**33.** Have you ever failed to file your state or federal income tax return? If so, please explain.
No

**34.** Have you been found by the Colorado Department of Revenue, IRS, or any other agency or court to have willfully failed to properly disclose your income during the last five years? If so, please give details.
No

**35.** Do you owe any unpaid taxes or past-due child support? If so, please explain.
No

## CERTIFICATE OF APPLICANT

I understand the submission of this application expresses my willingness to accept appointment to the position of presiding municipal judge, deputy municipal judge, or both for the City of Louisville, Colorado, as noted on page 1 of this application and my willingness to abide by the Louisville City Charter and the Louisville Municipal Code, if appointed. I hereby certify that the information given in this application is correct and complete.

Date: 2/4/20 _____ Robert R. Gunning _____
Signature of Applicant

Robert R. Gunning _____
Print or Type Name

## WAIVER

I grant the City of Louisville, Colorado the right to examine the records of the Attorney Regulation Counsel (formerly maintained by the Supreme Court Grievance Committee) and the records of the Commission on Judicial Discipline. I consent to the release of information by employers, schools, law enforcement agencies, credit agencies, and other authorized personnel to verify the information contained in this application.

Date: 2/4/20 _____ Robert R. Gunning _____
Signature of Applicant

Robert R. Gunning _____
Print or Type Name

Please submit application by mail to:
City of Louisville
Attn: Meredyth Muth, City Clerk
749 Main Street
Louisville, CO 80027

*Or by email to:*
MeredythM@LouisvilleCO.gov

***Application Deadline: February 7, 2020 4 pm.***

## APPLICATION FOR LOUISVILLE, COLORADO MUNICIPAL COURT JUDGESHIP AND TWO DEPUTY MUNICIPAL COURT JUDGESHIPS

***The information you provide in the application is public information and will be released upon request if the applicant's name is forwarded to the Louisville City Council as a finalist for consideration of appointment. All positions will be independent contractors working for the City of Louisville.***

**PLEASE MARK WHICH POSITIONS YOU ARE INTERESTED IN APPLYING FOR:**

☐ **Presiding Judge** ☐ **Deputy Judge (2)** x☐ **Either Position**

### A. PERSONAL INFORMATION

1. Full Name: **Karolyn Val Moore**
2. Are you able to work in the United States on a full-time basis? **Yes**
3. Are you an attorney at law admitted to practice in Colorado? **Yes**
   If so, what is your Attorney Registration Number? **20685**
4. Current work address: **480 S. Allison Parkway, Lakewood, CO 80226**
5. Best telephone number at which to reach you: **303-726-8101(cell)**
6. List your place of residence for the past five years:

| Dates | City | State | County |
|---|---|---|---|
| May 2004-present | Boulder | CO | USA |
| | | | |
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### B. EDUCATIONAL BACKGROUND

7. List the names and locations of schools attended, beginning with high school.

| Name | Location | Dates Attended | Degree |
|---|---|---|---|
| Arvada West High School | Arvada, CO | 1981-1983 | Yes |
| Red Rocks CC | Golden, CO | 1983-1984 | No |
| Univ. of Colorado | Denver, CO | 1984, 1986-1988 | Yes, B.A. |
| George Washington Univ. | Washington D.C. | 1985 | No |
| Univ. of Colorado Law School | Boulder, CO | 1988-1991 | Yes, J.D. |
| | | | |
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## C. PROFESSIONAL BACKGROUND AND EXPERIENCE

**8.** List all courts in which you have been admitted to practice, with dates of admission. Give the same information for administrative bodies which require special admission to practice.

| Bar Admission | Date |
|---|---|
| State of Colorado | 1991 |
| | |
| | |
| | |

**9.** Indicate your present employment (list professional partners or associates, if any, and include dates). If you currently practice law, describe the nature of your present law practice, listing the major types of law you practice and the percentage each constitutes of your total practice.
**Municipal Judge, Lakewood Municipal Court, Colorado**
**Adjudicating municipal violations for adults and juveniles.**

**10.** If you have focused on any specific area of law listed in number 9, what is it?
**Lakewood Municipal Code and the Colorado Revised Statutes**

**11.** Have you practiced in the trial courts of Colorado within the past five years? If so, please state what percentage of your total practice was comprised by trial practice and the types of matters you handled.
**In the Boulder County Court I handled many criminal jury trials and many civil trials to the court and small claims trials to the court. The criminal cases were misdemeanors and the civil cases were financial disputes with the amount of the dispute under $15,000. Jury trials were set every other week and court trials were set three to four days a week. On average I would hear twenty jury trials per year. Statistics were not kept regarding the number of trials to the court.**

**12.** Summarize your experience presiding over or serving as an advocate in adversary proceedings before administrative boards or commissions.
**I was the District Attorney representative on the Colorado Sex Offender Management Board(SOMB) and later was elected as the Chair of the Board. My participation on the SOMB was from 2009 to 2011. As the Chair, I was responsible for conducting the public hearings, overseeing the changes to rules as approved by the SOMB, and advocating for legislative changes as requested by the SOMB.**

**13.** List your prior professional or business employment since completion of your formal education (include dates).

| | |
|---|---|
| **Municipal Court Judge, Lakewood Municipal Court** | **2019-present** |
| **County Court Judge, Twentieth Judicial District** | **2011 – 2019** |
| **Deputy District Attorney, First Judicial District** | **1992-2004, 2007-2011** |
| **Deputy District Attorney, Twentieth Judicial District** | **2004-2007** |
| **Deputy District Attorney, Ninth Judicial District** | **1991-1992** |

**14.** If you have not been employed continuously since completion of your formal education, provide the dates and for each period, describe generally what you were doing.

**I was unemployed from February 2019 to June 2019. During that time I traveled and assisted with elderly relatives. In addition, during 2019 I attended a 500 hour certificate program and received a professional coaching certificate with the goal of assisting judges and attorneys to utilize their leadership skills and optimize their professional goals.**

## D. PROFESSIONAL, COMMUNITY, AND PUBLIC SERVICE

**15.** List activities in professional associations, including offices held, committees, awards, honors, and citations (include dates).
Presenter and lecturer for the following:
**Boulder and Longmont Bar Associations – View from the bench, landlord/tenant, 2011-2019**
**Boulder County District Attorney Office – child abuse, sexual assault, 2004-2007**
**Boulder County Sheriff's Office - prosecuting sexual assault cases, 2004-2007**
**Colorado Association for Sex Crimes Investigations – non-stranger sexual assaults, 2008**
**Colorado Organization for Victim Assistance – sex assault case study, 2010**
**Ending Violence Against Women – Sexual Assault, domestic violence, 2004-2010**
**Jefferson County Sheriff's Department – Evidence, crimes against children, inchoate offences, criminal procedure, 1992 - 2010**
**Jefferson County Advocacy Center – Court school, 1998 - 2004**
**Jefferson County District Attorney's Office – Child abuse training, sex assault, new detective training, 1992 - 2010**
**Longmont Police Department – courtroom testimony, sex assault, 2004 - 2007**
**Moving to End Sexual Assault – new volunteer training, 2004 - 2007**
**Prison Rape Elimination Act Conference – Case study on inmate sex assault, 2008**
**Red Rocks Community College – Mock crime scene, moot court, inchoate offenses, criminal procedure, 1993 - 2010**
**Sexual Assault Nurse Examiners Conference – Evidence and courtroom testimony, 2010**
**University of Colorado Law School - hired and managed the legal interns from 2013-2019, moot court, Women's Law Association, prosecuting sexual assaults**

**16.** List your recent activities in civic and charitable organizations, including offices held, awards, honors, and citations (include dates).
**Colorado County Court Judges Association, member, 2011-2019**
**Pocket Park Home Owners Association, participant 2004-present**
**Boulder Valley School District, parental involvement, 2004 – 2017**
**Chinese Children Adoption International, 1999-2004**
**Energy Coaches Alliance, member 2019 – present**
**Rape Assistance and Awareness Program, board member, 2003 – 2005**
**Jefferson County Child Protection Team – 1998 - 2000**

**17.** List all public offices to which you have been appointed or elected (include dates served).
**County Court Judge, 20th Judicial District. I was appointed in 2011. I was retained in the general election in 2014 and ended the position in 2019.**

**18.** Have you served in the military? If so, please provide the branch, dates of service, rank attained, and whether you received an honorable discharge.
**No**

## E. REQUIREMENT TO COMPLY WITH THE LOUISVILLE CITY CHARTER AND THE LOUISVILLE CITY CODE

***If appointed to the bench, you will be required to comply with the provisions of contained in the Louisville City Charter and the Louisville Municipal Code***

**19.** Do you understand a judge is required to file reports of compensation for quasi-judicial and extra-judicial activities in conformance with the Code of Judicial Conduct?
**Yes**

**20.** Do you understand that a judge must comply with and is subject to applicable provisions of Louisville City Charter and the Louisville Municipal Code, including but not limited to the provisions of Section 9-3 of the Charter setting forth principles of conduct for City municipal judges?
**Yes**

**21.** Do you understand that City of Louisville's ethics rules provide that independent contractors who perform official actions on behalf of the City which involve the use of discretionary authority shall not receive any gifts seeking to influence their official actions, that City officers and employees similarly shall not receive such gifts, and that you must abide by the gift restrictions and any other applicable provisions of the City's Code of Ethics?
**Yes**

## F. MISCELLANEOUS

**22.** A Louisville municipal judge is expected to use computer technology for a wide variety of functions including word processing, legal research, case management, e-filing and e-mail. Do you **personally use** a computer for any of the purposes listed above or for similar purposes? If yes, describe the functions you perform and state how frequently you perform each function. If no, state whether you will participate in training to develop and maintain your personal skills in using computer technology.
**Daily I use the computer for emailing. I use the computer for e-filing and case management in Lakewood Municipal Court. All of the files in the State court are electronic files and I am competent in using the State court computer system for case management. I use Microsoft word to complete written orders and I use Lexis to complete legal research. While I am not familiar with the Louisville electronic case management system, I am willing to participate in training to learn the system.**

**23.** List the names of no more than three individuals whom you have contacted and who have agreed to serve as professional references. If selected as a finalist, we will request you provide at least one letter of reference from someone who has knowledge of your legal work.
**The Honorable Ingrid Bakke**
**Chief Judge, 20th Judicial District**
**303-441-1817**
**The Honorable Anne Stavig**
**Presiding Judge, Lakewood Municipal Court**
**303-987-7400**
**The Honorable John Stavely**
**County Court Judge, 20th Judicial District(ret.)**
**Louisville Municipal Judge(ret.)**
**720-939-3592**

**24.** Please attach a statement not to exceed one page in length, double-spaced, discussing the reasons why you wish to be appointed to this vacancy and the qualities you would bring to the bench if appointed.

## G. PROFESSIONAL CONDUCT AND ETHICS

**25.** Have you ever been disciplined or sanctioned for a breach or possible breach of ethics or unprofessional conduct by the Supreme Court Grievance Committee, the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, the Commission on Judicial Discipline (including a private letter of admonition, reprimand, or censure), or by any administrative agency or disciplinary committee? If so, please provide details.
**No**

**26.** Do you know if any proceeding is pending against you before the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, or by any administrative agency or disciplinary committee? If so, please provide details.
**No**

**27.** Have you ever been convicted (including by plea of guilty or *nolo contendere*) a felony, misdemeanor (including driving under the influence of alcohol or drugs, driving while ability impaired by alcohol or drugs), or a serious moving traffic offense in any jurisdiction within or outside Colorado? If so, please provide details.
**No**

**28.** Have you ever been a party to or the subject of, or involved in any other legal proceedings, civil or criminal (excluding dissolution or bankruptcy proceedings and non-moving minor traffic offenses)? If so, please provide details.
**I filed for adoption of my daughter who was born in China in the Denver District Court in 2000. I was listed as a parent of my daughter who changed her name. In 2017 I was listed as a victim of retaliation against a judge in a Colorado Grand Jury indictment. Several individuals were tried and convicted in Colorado between 2017 and 2019.**

**29.** Have you ever been cited for contempt of Court? If so, please provide details
**No**

**30.** Is there any circumstance or event in your personal or professional life which, if brought to the attention of the City of Louisville, might tend to affect adversely your qualifications to serve on the Louisville Municipal Court? No If so, please explain. **No**

**31.** Do you currently have a valid Colorado driver's license? If not, please provide details. **Yes**

**32.** Has your driver's license ever been revoked or suspended? If so, please provide details.
**No**

## H. MISCELLANEOUS INFORMATION

**33.** Have you ever failed to file your state or federal income tax return? If so, please explain.
**No**

**34.** Have you been found by the Colorado Department of Revenue, IRS, or any other agency

or court to have willfully failed to properly disclose your income during the last five years? If so, please give details.
**No**

**35.** Do you owe any unpaid taxes or past-due child support? If so, please explain.
**No**

## CERTIFICATE OF APPLICANT

I understand the submission of this application expresses my willingness to accept appointment to the position of presiding municipal judge, deputy municipal judge, or both for the City of Louisville, Colorado, as noted on page 1 of this application and my willingness to abide by the Louisville City Charter and the Louisville Municipal Code, if appointed. I hereby certify that the information given in this application is correct and complete.

Date: 2/6/20 Karolyn Moore
Signature of Applicant

Karolyn Moore
Print or Type Name

## WAIVER

I grant the City of Louisville, Colorado the right to examine the records of the Attorney Regulation Counsel (formerly maintained by the Supreme Court Grievance Committee) and the records of the Commission on Judicial Discipline. I consent to the release of information by employers, schools, law enforcement agencies, credit agencies, and other authorized personnel to verify the information contained in this application.

Date: 2/6/20 Karolyn Moore
Signature of Applicant

Karolyn Moore
Print or Type Name

Please submit application by mail to:
City of Louisville
Attn: Meredyth Muth, City Clerk
749 Main Street
Louisville, CO 80027

*Or by email to:*
MeredythM@LouisvilleCO.gov

***Application Deadline: February 7, 2020 4 pm.***

The vacancy in the Louisville Municipal Court coincides with my desire to continue to bring experience, knowledge and energy to operating an efficient and effective courtroom. A municipal court is truly a people's court, in that most people who appear in court are self-represented and appear without an attorney. For many, it is their first time to appear in a courtroom and they are scared and nervous that they are to be judged by one action. I am passionate about providing access to justice for all segments of society and promoting equitable treatment for all litigants, including first time participants. I have a strong foundation for adjudicating complex issues and have a history of leading teams of diverse professionals towards accomplishing objectives.

I possess expertise in the area of criminal and civil law that is invaluable as a Municipal Court Judge and have participated in all levels of criminal and civil courts. It was invigorating to learn a new aspect of the law this past year: the municipal code and the municipal rules of procedure. Attending a meeting of the Colorado Municipal Judges Association has ignited a continued interest in the legislative impacts on the courts in Colorado. It will be an exciting challenge to delve deeper into municipal law.

My personality and demeanor are well suited for the municipal bench. I possess a calm, controlled and competent presence and can deescalate heated exchanges while trying to find some compromise from both sides. It is important to treat all support staff as equal and understand that everyone must work together and be respectful to each other in order to achieve an outcome. I can work independently and enjoy solving complex problems and am noted for my integrity and ethical judgment. These are a few traits that will help me contribute to a culture of effectiveness and compassion in the Louisville Municipal Court.