



CITY COUNCIL AGENDA

NOTICE TO READERS: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given. Many items have been previously discussed at a Council Study Session.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 4) is reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings** (November 23, 2015)
4. **Citizen Communication (5 minutes or less)**
5. **Report of City Officials**
 - A. City Manager's Report
6. **City Council Comments**
7. **Presentations**
 - A. Recognition of Westminster High School Football Team
 - B. Digital Cities Survey 2015 Award Presentation

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. **Consent Agenda**
 - A. Construction Services Contract Amendment for Phase 2 of the Little Dry Creek Grading Project
 - B. Federal Section 108 Loan Balance Payment
 - C. Contract for Electronic Permitting System for Community Development
 - D. Construction Contract Award for Little Dry Creek Trail – Federal to Lowell Project
 - E. 2016 Traffic Signal and Street Light Maintenance Contract Award
 - F. Amendment to 2015 Contract for Traffic Signal and Street Light Maintenance
 - G. Oracle Annual Service Contract for the JD Edwards Financial Management System
 - H. Additional Expenditure Authorization for Public Defender Services to David Rockwell
 - I. Refurbish and Remount Ambulances on New Ford Vans
 - J. 2016 Server and Computer Replacement Purchases
 - K. 2016 Deicing Salt Purchase Contract
 - L. 136th Avenue and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs Contract
 - M. 2016 Asphalt Pavement Crackseal Project Contract
 - N. 2015 Water Treatment Facilities Improvements Project Engineering Services Contract
 - O. Combining Funding for 2015 Water Treatment Facilities Improvements Capital Project
 - P. Federal Boulevard Water Main Construction Contract Award
 - Q. Amendment of Federal Boulevard Water Main Engineering Contract
 - R. Second Reading of Councillor's Bill No. 52 – Winters Subdivision Comprehensive Plan Amendment
 - S. Second Reading of Councillor's Bill No. 53 Vacating Streets in Winters Subdivision
 - T. Second Reading of Councillor's Bill No. 54 Authorizing Alliance Data Storage Corporation EDA
 - U. Second Reading of Councillor's Bill No. 55 Authorizing 3rd Quarter 2015 Budget Supplemental Appropriation
9. **Appointments and Resignations**
10. **Public Hearings and Other New Business**
 - A. Public Hearing on Amended PDP for Church Ranch Home Place and ODP for Church Ranch Home Place Filing 1
 - B. 4th Amendment to PDP for Church Ranch Home Place
 - C. 13th Amendment to ODP for Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2
 - D. Accept 2016 Rocky Mountain High Intensity Drug Trafficking Area Grant for North Metro Task Force

- E. Councillor’s Bill No. 58 Authorizing Supplemental Appropriation of 2016 Federal Grant Funds
- F. Authority 2017 Rocky Mountain High Intensity Drug Trafficking Area Grant Application
- G. Confirmation of New City Clerk

- 11. Old Business and Passage of Ordinances on Second Reading**
- 12. Miscellaneous Business and Executive Session**
 - A. City Council
- 13. Adjournment**

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (Separate Agenda)
WESTMINSTER HOUSING AUTHORITY MEETING (Separate Agenda)

NOTE: Persons needing an accommodation must notify the City Clerk no later than noon on the Thursday prior to the scheduled Council meeting to allow adequate time to make arrangements. You can call 303-658-2161/TTY 711 or State Relay or write to lyeager@cityofwestminster.us to make a reasonable accommodation request.

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, NOVEMBER 23, 2015, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor Atchison led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Herb Atchison, Mayor Pro Tem Alberto Garcia and Councillors Bruce Baker, Shannon Bird, Emma Pinter, and Anita Seitz were present at roll call. Councillor Maria De Cambra was absent. Also present were City Manager Donald M. Tripp, City Attorney David Frankel, and City Clerk Linda Yeager.

CONSIDERATION OF MINUTES

Mayor Pro Tem Garcia moved, seconded by Councillor Baker, to approve the minutes of the regular meeting of November 9, 2015, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. Tripp welcomed guests in the audience, thanking those who would receive the 2015 Business Legacy Awards for the vital services provided to Westminster residents during their longstanding operations in the City. It was a privilege to recognize those business owners. A post-meeting would be held following adjournment of this meeting.

COUNCIL REPORTS

Mayor Pro Tem Garcia invited the public to attend the Westminster Historical Society's Hometown Tree Lighting on December 3 at the Grange Hall on 73rd Avenue. An Information Only Staff Report received by City Council announced recent Teams In Action award winners. The array of contributions to the organization that were described in that report were reflective of the innovation and commitment of City employees who cared about the work they performed. He was appreciative and thanked those individuals who had received Teams In Action Awards.

Councillor Seitz extended Happy Thanksgiving wishes to all and asked that people shop locally on Small Business Saturday in support of local businesses instead of shopping on Black Friday. Purchasing commodities from local businesses had a direct correlation on the economic health of the City and the City's ability to provide services to residents. She thanked the business owners in the audience who would be recognized for the length of time they had operated in the City. The annual Holiday Lighting of City Hall was approaching on the evening of December 5, and it was rumored that Santa Claus would arrive during the celebration. December 8 was Colorado Gives Day, and the Hoffbrau was supporting the Ralston House by giving a free pint of beer to everyone who made at minimum \$5 donation.

PRESENTATIONS

The Mayor and City Councillors joined together to present the 2015 Business Legacy Awards and to congratulate recipients. Twenty-seven business were recognized. Those in attendance celebrating 30 years of business were: A New Direction Counseling Center; DJ Buss and Associates, LLC; Glabe Consulting Services Inc.; Farmers Insurance – Deb Brundage Agency; Rosita's Mexican Restaurant; Shea Enterprises; Westminster Flowers; and Jeffries Construction and Paving, Inc. Recognized for 35 years of business were: Farmers Insurance – Seiji Tanaka Agency and King Soopers #55. Aspen Motor Company was recognized for 40 years of business, the Publishing House for 45 years, Loughheed's Jewelers Inc. for 50 years, and Westminster Federal Credit Union for 55 years. Mayor Atchison thanked the group for remaining in Westminster and hoped they would continue to operate for years to come.

CONSENT AGENDA

The following items were presented on the consent agenda for City Council's action: accept the October Financial Report, as presented; authorize the City Manager to sign the ninth amended intergovernmental agreement with the Urban Drainage and Flood Control District and Adams County for the Little Dry Creek Regional Detention Pond and related channel improvements; authorize the purchase of a John Deere front-end loader from Honnen Equipment, utilizing the Colorado Department of Transportation bid award for the amount of \$182,213, less trade-in allowance of \$31,500, resulting in a net cost of \$150,713; and concur with Staff recommendation to pursue fixed-price agreements for gasoline and diesel fuel for year 2016, up to the amounts of 215,000 gallons of gasoline and 120,000 gallons of diesel fuel, for fuel purchases not to exceed \$ 1,126,430 total.

No one wished to remove any item for individual consideration, and it was moved by Councillor Baker and seconded by Councillor Seitz to approve the consent agenda as presented. The motion carried with all Council members voting affirmatively.

PUBLIC HEARING – WINTERS SUBDIVISION FILING NO. 1 CP AMENDMENT, PDP, ODP & LAND TRADE

At 7:28 p.m., the Mayor opened a public hearing to consider the Winters Subdivision Filing No. 1 Comprehensive Plan Amendment, Preliminary Development Plan, Official Development Plan, and land exchange. Mac Cummins, Planning Manager, entered the agenda memorandum and attachments in the record, as well as email correspondence that had been received following publication of the agenda packet. Legal notification requirements of the Westminster Municipal Code had been satisfied. A correction was offered to 3(a) and 4(a) on page 1 of the agenda memorandum, noting that this property was in Jefferson, not Adams County. Neighborhood issues pertaining to the proposed development of this 32-lot residential subdivision had focused on traffic, safe pedestrian/bicycle access, dust, grade, storm drainage, and maintenance of City open space. Dave Downing, City Engineer, reviewed the comments that had been received and responded to questions from City Council.

David Brim, the applicant's representative, described the proposed development, street layout, access from 110th Avenue, landscaping, and lot sizes as reflected on the Preliminary Development Plan. The project, as designed, was very compatible with the neighboring Green Knolls Subdivision.

The Planning Commission had reviewed this proposal and voted to recommend approval.

The Mayor opened the hearing to public comment. Dan Patrino, 7730 West 110th Avenue, asked that the entrance to the proposed subdivision off of 110th Avenue be identified. No others wished to speak and the Mayor closed the hearing at 8:16 p.m.

COUNCILLOR'S BILL NO. 52 RE WINTERS SUBDIVISION COMPREHENSIVE PLAN AMENDMENT

It was moved by Mayor Pro Tem Garcia, seconded by Councillor Seitz, to pass on first reading Councillor's Bill No. 52 approving a Comprehensive Plan (CP) amendment for the part of the property known as the Winters South Property by changing the designation of parts of the parcel from City Open Space, Private Park/Private Open Space, and R-3.5 to City Open Space, Private Park/Private Open Space, and R-2.5 based on a finding that: a) the proposed amendment would be in the public good and that, b) the proposed amendment was in compliance with the overall purpose and intent of the Comprehensive Plan. The motion carried unanimously on roll call vote.

WINTERS SUBDIVISION FILING NO. 1 PRELIMINARY DEVELOPMENT PLAN

Upon a motion by Mayor Pro Tem Garcia, seconded by Councillor Seitz, the Council voted unanimously to approve the Preliminary Development Plan for Winters Subdivision Filing No. 1 based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code had been met and conditional on: a) the ultimate vacation of rights-of-way of Yukon Circle and Yukon Street as shown on the Final Plat of Winters South Subdivision recorded

with Reception Number 2007121066 on October 26, 2007, in Jefferson County, Colorado, and; b) the City Council's approval of the trade of City-owned Open Space property per Section 15-2-1(B)(1), W.M.C., for equal area and equal quality real property.

WINTERS SUBDIVISION FILING NO. 1 OFFICIAL DEVELOPMENT PLAN

Mayor Pro Tem Garcia moved, seconded by Councillor Seitz, to approve the Official Development Plan for Winters Subdivision Filing No. 1 based on a finding that the criteria set forth in Section 11-5-15 of the Westminster Municipal Code had been met and conditional on: a) the ultimate vacation of rights-of-way of Yukon Circle and Yukon Street as shown on the Final Plat of Winters South Subdivision recorded with Reception Number 2007121066 on October 26, 2007, in Jefferson County, Colorado, and; b) the City Council's approval of the trade of City-owned Open Space property per Section 15-2-1(B)(1), W.M.C., for equal area and equal quality real property. The motion carried by unanimous vote.

LAND TRADE OF EQUAL AREA AND QUALITY REAL PROPERTY IN WINTERS SUBDIVISION PDP

It was moved by Mayor Pro Tem Garcia, seconded by Councillor Baker, to approve the trade of City-owned Open Space property per Section 15-2-1(B)(1), W.M.C., for equal area and equal quality real property in the Winters Subdivision Preliminary Development Plan. Councillor Seitz seconded the motion, and it carried with all Council members voting affirmatively.

COUNCILLOR'S BILL NO. 53 VACATING WINTERS SOUTH SUBDIVISION SPECIFIC RIGHTS-OF-WAY

Councillor Seitz moved, seconded by Councillor Pinter, to pass on first reading Councillor's Bill No. 53 vacating all street rights-of-way dedicated on the Winters South Subdivision Plat. On roll call vote, the motion passed unanimously.

COUNCILLOR'S BILL NO. 54 AUTHORIZING ALLIANCE DATA SYSTEMS CORPORATION EDA

Councillor Pinter moved to pass on first reading Councillor's Bill No. 54 authorizing the City Manager to execute and implement an Economic Development Agreement with Comenity Servicing LLC, the servicing agent for Alliance Data Systems Corporation. The motion carried by unanimous vote at roll call.

COUNCILLOR'S BILL NO. 55 AUTHORIZING 3RD QUARTER SUPPLEMENTAL APPROPRIATION

Councillor Baker moved, seconded by Councillor Pinter, to pass on first reading Councillor's Bill No. 55 providing for a supplemental appropriation of funds to the 2015 budget of the General, Storm Drainage, and General Capital Improvement Funds. On roll call vote, the motion passed unanimously.

REFUND OF SPECIAL PURPOSE SALES/USE TAX REVENUE BONDS & PROCEEDS APPROPRIATION

Mr. Tripp requested that Council continue this matter to a Special Meeting of December 1, 2015, to allow consideration of emergency ordinances by the full City Council. It was moved by Mayor Atchison, seconded by Councillor Pinter, to continue consideration of Councillor's Bills No. 56 and 57, as emergency ordinances, to a Special Meeting of December 1 to begin at 7 p.m. in the Council Chambers. The motion passed unanimously.

RESOLUTION NO. 32 APPROVING 2016 LEGISLATIVE POLICY STATEMENT

Mayor Pro Tem Garcia moved, seconded by Councillor Seitz, to adopt Resolution No. 32 establishing the 2016 City of Westminster Legislative Policy Statement. At roll call, the motion passed unanimously.

RESOLUTION NO. 33 APPROVING GOCO INSPIRE GRANT FOR NATURE PROGRAMS

Councillor Pinter moved to adopt Resolution No. 33 allowing the Parks, Recreation, and Libraries Department to receive \$70,000 from the State Board of the Great Outdoors Colorado Trust Fund in support of the planning and development of a comprehensive outdoor recreation and nature education program in support of Council goals. Councillor Baker seconded the motion, and it carried unanimously on roll call vote.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 8:29 p.m.

ATTEST:

City Clerk

Mayor



Agenda Item 7 A

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Recognize Westminster High School Wolves Football Team

Prepared By: Mary Joy Barajas, Executive Secretary to the City Manager

Recommended City Council Action

Mayor Atchison to recognize the members of the 2015 Westminster Wolves Football Team for their 2015 Season.

Summary Statement

- The Westminster Wolves Football team had a remarkable 2015 season.
- The team was undefeated heading into the state playoffs.
- The Wolves won the Flatirons Conference title.
- Members of the team and coaching staff will be present Monday night to receive recognition from City Council.

Expenditure Required: N/A

Source of Funds: \$0

Policy Issue None identified

Alternative None identified

Background Information

The Westminster High School Wolves Football team had an exciting season. The team of 60 players and 7 coaches achieved a 9-1 record and were the Flatirons Conference champions. The Wolves football team was undefeated heading into the state playoffs. The team played in front of a packed District 50 Memorial Stadium crowd on November 6 against Fruita Monument. Unfortunately they did not make it past this first round, losing 28-14, but had a remarkable season.

The recognition of this team and their 2015 season accomplishments supports the City's 2015 Strategic Plan Goal of Vibrant, Inclusive and Engaged Community.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 7 B

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Digital Cities Survey 2015 Award

Prepared By: David Puntenney, Information Technology Director

Recommended City Council Action

Councillor Seitz to present the Digital Cities Survey 2015 Award to the Information Technology Department in recognition of the success that the City of Westminster has achieved in the use of information technology.

Summary Statement

- City Council is asked to present the Center for Digital Government's "Digital Cities Survey" award that recognizes the success the City of Westminster has achieved - via the use of technology - in operating efficiencies, realizing strategic objectives, innovative and creative solutions, effective collaboration and transparency measures.
- This award was accepted by IT Director David Puntenney and Software Engineering Manager Art Rea during a special recognition and award presentation at the National League of Cities Conference in Nashville, Tennessee, on November 6, 2015.
- Information Technology Director David Puntenney, Software Engineering Manager Art Rea, Information Systems Manager Scott Rope, and Senior Telecommunication Administrator Dan Hord will be in attendance at the meeting to accept the award.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Digital Cities Survey 2015 Winner

Policy Issue

None identified.

Alternative

None identified.

Background Information

The Center for Digital Government, a national research and advisory institute on information technology policies and best practices in state and local government, conducts an annual comprehensive nationwide Digital Cities Survey to evaluate results achieved by cities - via the use of technology - in operating efficiencies, realizing strategic objectives, innovative or creative solutions or approaches, effective collaboration and transparency measures. Participation in the program has increased each year and competition is growing. Cities are categorized and ranked by population.

The Center for Digital Government evaluated the City of Westminster and other participating cities from across the nation in the areas of Information Technology strategic planning, hardware and software technologies, citizen engagement, green initiatives, city services offered through web sites, use of mobile technology and policies, technology use in public safety, geographic information system capabilities, voice and data networks and more. Staff is very pleased to report that the City of Westminster was awarded a 5th place ranking in the population category of 75,000 – 125,000. This is the thirteenth year Westminster has achieved a top ten ranking nationwide. Westminster was one of only two Colorado cities selected in the 75,000 – 125,000 population category. Winners are posted on the Center for Digital Government's website (www.centerdigitalgov.com).

The Center for Digital Government hosted an award reception for winners during the NLC Convention in Nashville, Tennessee on November 6, 2015.

This award addresses two Strategic Plan goals: Financially Sustainable Government Providing Excellence in City Services and Beautiful, Desirable, Safe and Environmentally Responsible City.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 A

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Construction Services Contract Amendment for Phase 2 of the Little Dry Creek Grading Project

Prepared By: Andrew Hawthorn, Senior Engineer

Recommended City Council Action

Authorize the City Manager to sign the amended Little Dry Creek Grading Project contract with Concrete Express, Inc., in the amount of \$11,830,803 to include phase two of the project that will complete the drainage and flood control work in this area and authorize a \$500,000 contingency.

Summary Statement

- On March 16, 2015, the City Council authorized the City Manager to enter into a Construction Manager/General Contractor (CM/GC) contract with Concrete Express, Inc. (CEI) to perform the construction of the first phase of the Little Dry Creek Grading Project. The CM/GC contract is structured to allow for amendments to the contract for the construction of subsequent phases of the project.
- CEI was competitively selected for this project during a qualifications based selection process.
- City staff, CEI and the design team have been working collaboratively on a weekly basis since March 19, 2015, to complete the design drawing set and identify the cost of the second phase work, which is now defined as \$4,687,781.
- It is necessary to approve the second phase contract amendment in order to complete the flood control and grading work currently under construction by CEI. Concrete Express has entered into separate contracts with other entities whose timeframes to receive the dirt currently being exported from the site are critical. Therefore, Concrete Express has requested that it be allowed to begin work under a contract with the City for the second phase of construction to accommodate those deliveries of the exported soil to minimize the risk that Concrete Express would lose the ability to deliver the soil to its client that would, in turn, impact the City's project and costs.
- The original Engineer's estimate for the entire project was \$13,944,534. Through this collaborative approach of utilizing the contractor's expertise and this CM/GC style of contracting, staff was able to expand the project scope and upgrade the types of materials while reducing the expected cost of this project by \$1,613,731 for a current total of \$12,330,803 (including the \$500,000 contingency).
- City Council action is also requested to authorize a \$500,000 contingency equivalent to 4% of the overall contract value to cover variable costs associated with an irrigation water tap purchase from Denver Water and the Crestview Water and Sanitation District.
- Adequate funds are budgeted and available to fund this contract amendment.

Expenditure Required: \$5,187,781 (Phase II portion of cost)

Source of Funds: Little Dry Creek Regional Detention Project – Storm Drainage Fund

Policy Issues

Should the City continue with the construction of the Little Dry Creek Regional Detention Pond and Open Space Project at this time?

Alternatives

City Council could decide to delay the construction of the second phase of the project. Staff does not recommend this alternative because the completion of this project is necessary to lower the floodplain in this area for the adjacent Adams County residents and the Westminster Station commuter rail project by mid-summer of 2016.

Background Information

Since 2009, City staff has been working with the Regional Transportation District (RTD), the Urban Drainage and Flood Control District (UDFCD) and Adams County on the Westminster Commuter Rail Station and transit-oriented development (TOD) area redevelopment. Currently, the 100-year floodplain inundates the railroad tracks by approximately four feet. The Little Dry Creek Drainage Project will lower the floodplain water surface elevation by four feet to below the elevation of the commuter rail tracks. In addition, lowering the 100-year floodplain by four feet means that fourteen existing homes located in unincorporated Adams County will no longer be within the 100-year floodplain. To achieve this, over 250,000 cubic yards of material must be removed from this site, a new 2.3-acre lake must be constructed and the realignment of Little Dry Creek must occur. Per the Intergovernmental Agreement (IGA) between the City and RTD, the City will receive up to \$2 million in credit toward the City's and Adams County's required Local Agency Contribution of \$3,422,500 for the FasTracks project. This project also prepares the site for construction of future phases of work that include the station transit boarding area, Creekside Drive and Little Dry Creek Park. Any substantial delay in the overall grading of the site will prevent the commuter rail tracks from being removed from the floodplain and impact the revenue service date for commuter train service on the Northwest Rail Line per the IGA with RTD.

Over the past three years, the City has realigned over five thousand feet of sanitary sewer mains, relocated two water lines, bored three new tunnels under Federal Boulevard, removed approximately 175,000 cubic yards of soil, removed over 1,000,000 pounds of trash and imported 2,600 tons of river bed cobble and large boulders to reshape the creek bed and construct a new lake. Per the IGA between the City and RTD, the City is obligated to complete floodplain improvements before the revenue service date, which is scheduled for mid-2016. Given the scale of this project, the City must continue work on this project in order to achieve this deadline. This request to authorize the construction of Phase Two will complete the grading and flood control project. Phase Three, the addition of Creekside Drive, will be presented to Council for consideration at a future City Council meeting.

The first phase of the contract consisted primarily of excavation due to the extent of the export of the large amount of soil from the site. Also included in the first phase were some storm sewer pipe installations and drainage outfall work including the boulder drop structures located downstream of the spillway of the lake. Phase Two of the contract will complete the project incorporating many refinements and aesthetic design elements. Just a few of the elements included in Phase Two of the contract are reinforced concrete box culverts, boulder drop structures, very large boulder aesthetic features, lakeside stone work, and landscaping near the creek channel.

In order to engage the expertise of a contractor to perform value engineering on the preliminary design plans, a Construction Manager/General Contractor (CM/GC) style of contracting was selected to complete the design. This team approach focused on value engineering by involving the CM/GC in the actual design process and incorporating cost savings that the firm's expertise brings to the project.

The CM/GC contract is structured to provide the City flexibility in engaging Concrete Express in a phased construction project for a fixed lump sum fee that staff negotiated and the City Council authorized on March 16, 2015. As originally contemplated, this contract is now ready to be amended to include the negotiated Guaranteed Maximum Price (GMP) for the second phase of construction.

Staff elected to consider the CM/GC style of contracting after researching the various methods utilized on similar projects in the region. For example, the City of Loveland (Mahaffey Park), the City and County of Denver (South Platte River Habitat Parks) and the City of Thornton (Margaret Carpenter Park) were successful in constructing major parks projects through the use of the CM/GC type of contract within the past several years. The Colorado Department of Transportation (CDOT) engages in this style of contracting for very large projects such as the Twin Tunnels expansion on I-70 near Idaho Springs.

This CM/GC team process has uncovered unknown issues, addressed design assumptions and generally achieved a 'buy-in' from the contractor that translated into cost savings for the City by taking advantage of the contractor's ability to minimize surprises and risks and refine the project design while construction was in progress. Furthermore, the contractor's experience in such matters is playing a large role in setting the schedule and phasing of the grading project.

The CM/GC brought expertise to the design process on items as specialized as the least expensive supplier of landscaping boulders and secured the best nearby locations to export excess dirt. Most importantly, the CM/GC worked with City staff and the design team to identify construction costs before authorizing work or purchasing materials. The City and the CM/GC are now at a point to agree upon the second phase of the Guaranteed Maximum Price (GMP) for the actual grading work, and, by definition, that cost will not be exceeded. To achieve this, significant regional project funding has been provided, in part, by Urban Drainage and Flood Control District and Adams County through Open Space Grant funds as well as the recent IGA with Adams County for the Little Dry Creek Road and Drainage Improvements authorized by City Council on January 26, 2015.

Staff recognizes that the CM/GC method of contracting is not nearly as common as the design/bid/build method that is generally used for the majority of the City's Capital Improvement Projects. But, for a multi-million dollar grading project located within an older portion of the City that revealed numerous buried obstacles, with added flexibility to alter the design during construction without the addition of costly change orders, staff is convinced that the early partnership with the contractor was the most beneficial and economical method of handling the project. As a result of this collaborative approach, the contractor's expertise and this CM/GC style of contracting, staff was able to adjust and refine the scope of work and reduce the expected cost of this project by an estimated \$1,613,731.

Council action on this item meets the City Council Strategic Plan goals of *Proactive Regional Collaboration; Excellence in City Services; Vibrant Inclusive and Engaged Community; and Ease of Mobility.*

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments: Vicinity Map

Little Dry Creek Drainage Project



0 75 150 300
Feet

1 inch = 200 feet



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Federal Section 108 Loan Balance Payment

Prepared By: Heather Ruddy, Community Development Program Planner

Recommended City Council Action

Authorize staff to proceed with expending \$453,000 in Community Development Block Grant funds provided by the U.S. Department of Housing and Urban Development for the purpose of paying down the principal balance on the City's Section 108 loan.

Summary Statement

- In 2012, the City received a \$1.5 million Section 108 loan from The Department of Housing and Urban Development (HUD) to support redevelopment on the southwest corner of 73rd Avenue and Lowell Boulevard. These funds were utilized for planning, property acquisitions, and tenant relocations.
- In 2015, the City received a Community Development Block Grant (CDBG) allocation of \$578,221 from HUD. Under HUD guidelines, the City as an entitlement grantee cannot have more than 1.5 times its annual allocation sitting in its line of credit 60 days prior to the end of the program year. The City currently maintains a balance of 2.3 times the annual grant amount. Should the City fail its next 60-day timeliness test, it will result in a reduction of the City's 2016 grant by 100 percent of the amount in excess of 1.5 times the annual grant.
- Staff proposes to expend \$453,000 in CDBG funds to pay down a portion of the City's Section 108 loan balance to meet HUD's timeliness deadline, strengthen the financial position of any project moving forward on the 73rd Avenue and Lowell Boulevard property, and reposition the City's balance of CDBG funds moving forward.

Expenditure Required: \$453,000

Source of Funds: Community Development Block Grant

Policy Issue

Should the City Council approve the proposed expenditure utilizing up to \$453,000 in CDBG funds to pay down a portion of the City's federal Section 108 loan balance?

Alternatives

- The City Council may choose to not authorize the expenditure of CDBG funds for the purpose of paying down a portion of the City's Section 108 loan balance. Staff does not recommend this option as failure to expend CDBG funds before the end of the year will result in the repayment of approximately \$453,000 to HUD.
- The City Council may choose to support the expenditure of CDBG funds on an alternative project. Staff does not recommend this option as the City does not have any "shovel ready" projects where the CDBG funds may be fully expended before December 31, 2015.

Background Information

Under HUD guidelines, the City as an entitlement grantee cannot have more than 1.5 times its annual allocation sitting in its line of credit 60 days prior to the end of the program year. The City's program year ends February 28, therefore the 60-day timeliness test will be conducted in mid-December. The City currently maintains a balance of 2.3 times the annual grant amount. Should the City fail its next 60-day timeliness test, it will result in a reduction of the City's 2016 grant by 100 percent of the amount in excess of 1.5 times the annual grant. So, if the City's ratio remains at 2.3 on December 31, its 2016 grant will be reduced by approximately \$453,000.

The main contributing factor to the City's CDBG balance is the delay in completing the streetscape improvements to Bradburn Boulevard. In order for the project to move forward, the City is beholden to Xcel Energy relative to undergrounding of its overhead utility lines and the installation of the lamp posts in the area. Upon receiving notice of CDBG funding in the summer of 2014, the City submitted a formal request to Xcel Energy to plan for and proceed with the undergrounding. The City has yet to receive a project timetable from Xcel Energy. Therefore, the City has over \$590,000 in budgeted CDBG funds tied up in this project.

Currently, the City has \$453,629 in CDBG funds that are uncommitted and readily available to be spent on an eligible project. One hundred fifty thousand dollars of the \$453,629 is made up of funds from a cancelled project, the Rodeo Market Community Garden. This project would have extended the park area behind the Rodeo Market to include a community garden through the purchase of property to the west of the park. Staff had been in the process of negotiating with the selling party to acquire the land for the garden. While the owner previously indicated an interest in selling the property, the negotiations stalled. The property owner is an elderly gentleman and his wife, both in their late 90's, which complicated the negotiation process and eventually stalled it all together.

In order to meet the timeliness requirements, staff recommends utilizing the entire balance of uncommitted funds to pay down a portion of the City's HUD Section 108 loan's principal balance. This use of CDBG funds is the most expedient means of meeting the City's timeliness requirement absent the identification of any "shovel ready" projects. Also, while the City continues to hold the note, paying down the principal would reduce the City's obligations towards interest payments until a project on the 73rd Avenue and Lowell Boulevard site can assume the loan. Moreover, paying down a portion of the principal balance on this loan will strengthen the financial position of any project moving forward on the property. The Section 108 loan is structured so that any future developer will

assume the balance of the loan upon completion of a project. Paying down the principal balance on the loan improves the feasibility of this critical project.

Per the City's CDBG Citizen Participation Plan, a 30-day public notice and request for public comment regarding this use of CDBG funds was posted on November 2, 2015 in multiple locations throughout the City and on the City website (see attachment for a list of locations). Further notification of the proposed use of funds and request for public comment was placed in *The Weekly*.

The recommended actions in this agenda memo supports the City's 2015 Strategic Plan Goal of *Financially Sustainable Government Providing Excellence in City Services* by positioning the CDBG program to be financially sustainable moving forward.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: List of Public Notice Locations

The following provides a list of locations where public notices were sent regarding the proposed expenditures of CDBG funds to pay down a portion of the City’s Section 108 loan. Recipients are asked to place the public notice in a prominent location in their facility for a 30-day period. Additionally, select individuals who have expressed an interest in the CDBG program and/or have requested direct notification of actions taken within the program also received notices.

<p>Schools</p> <p>Hidden Lake High School Westminster High School Ranum Middle School Shaw Heights Middle School Early Childhood Center Flynn Elementary School Harris Park Elementary School Hodgkins Elementary School Skyline Vista Elementary School Westminster Elementary School Crown Pointe Academy</p>	<p>Apartment Complexes</p> <p>Lowell Colony Apartments Orchard Crossing Susan Kay Apartments Terrace Gardens Village at Greenbriar Glendale Apartments Westminster Commons Villa Maria Clare of Assisi Homes Cottages at Panorama Point Residences at Panorama Point Westchester Apartments East Bay Senior Housing Mountain Terrace Bradburn Gardens Westbury Apartments Toscana Walnut Creek Warwick Station Apartments</p>
<p>Organizations</p> <p>FRESC Adams County Housing Authority Harris Park Townhomes HOA Hidden Lake HOA Meade Manor HOA Growing Home Heart of Westminster Westminster Grange Denver Post South Westminster Arts Group (SWAG)</p>	<p>City Facilities</p> <p>City Hall Irving Street Library College Hill Library The MAC Swim and Fitness Center City Website</p>
<p>Individuals</p> <p>Joe Sloan Gary Shea Vi June Bill Christopher Dino Valente Jill Jennings Golich</p>	



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Contract for Electronic Permitting System for Community Development

Prepared By: Michelle Stephens, Business Operations Coordinator
David Puntenney, Information Technology Director

Recommended City Council Action

Authorize the City Manager to execute, in substantially the same form as attached, a contract with SunGard Public Sector Inc. for the provision of an Electronic Permitting System for the Department of Community Development.

Summary Statement

- An independent evaluation of the City's development review process (audit) was completed by Matrix consulting in winter 2014/2015.
- The need for an electronic permitting software was identified as one of the key recommendations in the audit.
- The Department of Community Development in coordination with the Information Technology (IT) Department has completed an extensive search to identify the appropriate vendor to implement a department-wide electronic permitting system in response to the recommendations of the audit.
- A nationwide search was conducted and TRAKiT Land Management Software, by SunGard, was identified as the preferred vendor.
- TRAKiT will enhance the Community Development Department's operations by automating permitting, tracking projects, and managing inspections while providing transparency throughout the overall process.
- \$600,000 was appropriated from FY2014 carryover into FY2015 into the General Capital Improvement fund for the selection, acquisition and implementation of an e-permitting system associated with the 2015 Strategic Plan action item "Implement Community Development service enhancement (audit) recommendations."
- Completion of implementation of the new system is anticipated to be complete during the 3rd quarter 2016.

Expenditure Required: \$502,650 (plus \$65,895 beginning 2017 for annual maintenance)

Source of Funds: General Capital Improvement Fund – Westminster E-permitting Software Project

Policy Issue

Should City Council contract with SunGard Public Sector Inc. for the implementation of an electronic permitting system for the Department of Community Development?

Alternatives

1. City Council could choose to award this contract to another vendor. 13 vendors were invited to participate in the Request for Proposals (RFP) process. Two vendors formally withdrew from the process due to the \$600,000 budget and the City eventually received bids from five vendors. Staff evaluated 503 service and performance criteria as part of the proposal review. Additionally, BMGI, a business improvement consultant with expertise in government processes and IT improvements also evaluated the proposals. Based on the quality of the proposals, four firms were invited to participate in half-day interviews. The interview included presentations on workflow, training, project management, customer service, technology needs, and a discussion of the proposed fee. Representatives from multiple departments, including IT, Public Works and Utilities, and the City Clerk’s office participated. After the interviews, the quantitative analysis of the vendors did not identify a clear leader and staff proceeded with reference checks for all four finalist firms. Based on the results of the reference checks, two top vendors, EnerGov and TRAKiT, were identified for follow-up interviews. The follow-up interviews provided clarification regarding some aspects of each vendor’s software’s functionality. Based on the interviews, reference checks, and Staff’s experiences, the ultimate vendor ranking is as follows:

<u>Vendor</u>	<u>Bid Amount</u>
1) TRAKiT (SunGard) (original bid was \$797,878, which was adjusted based on actual City needs)	\$515,000
2) EnerGov (Tyler)	\$783,958
3) CityView (Harris)	\$688,522
4) Accela	\$637,411

Staff does not recommend awarding the contract to another vendor as the request for proposal process included a cross-departmental evaluation committee of staff who analyzed the proposals, interview performance, and reference responses against clear performance criteria. Additionally the staff involved in the evaluation process will be the daily users of the software. Their evaluation of the features, benefits, and limitations of each software is based on direct knowledge of the workflows that will be automated by the chosen vendor.

2. City Council could choose not to award this contract to any vendor. This alternative is not recommended as the implementation of an electronic permitting system was a key finding in the evaluation of the City’s development review process (audit) completed by Matrix consulting in winter 2014/2015. If an electronic permitting system is not implemented, Staff will have difficulty implementing other items identified in the audit, such as reduced development review times, improved cross-departmental tracking, and increased public transparency of the development review process.

Background Information

The need for electronic development review software was identified as part of the 2014/2015 evaluation of the development review process, which stated the need to:

...implement a single development review software that encompasses the entire development review process and not only the building permitting function. This software will address many concerns identified and provide much greater functionality to both staff and applicants including: electronic plan submittal by applicants, electronic plan review by staff, simpler and more timely compilation of development review comments by all reviews, ability for applicants to review status of applications and review specific staff comments online. (Final Report of the Development Review Process Evaluation Project, Matrix, January 29, 2015).

In response, Staff prepared and issued a Request for Proposals (RFP) for the “Westminster Electronic Permitting System” (WEPS) noting that:

The ideal software system will be used to efficiently manage workflows and record keeping related to a variety of building, engineering, planning and land use permits, contractor registration, code enforcement cases, periodic inspections, and regulatory enforcement programs. The system will make cross-departmental permit tracking, notification and reporting possible and will streamline and improve customers’ access to Department of Community Development information and processes. Online permit and license processing, electronic plan review of development plans, plats and engineering construction documents are goals of this project.

The RFP provided an option for the bidders to either provide a department-wide solution or a solution that excludes the Building Division functions (and would be used by only the Planning and Engineering Divisions). All bidders provided a department-wide solution, noting that one of the key reasons for adopting an electronic permitting system is to improve coordination and communication between divisions throughout the development review process.

The RFP was issued on June 29, 2015, to 13 vendors, including the Building Division’s current electronic permitting provider, Accela. Staff received five proposals on the due date (8/3/2015). After a rigorous evaluation process by the evaluation team and the City’s business improvement consultant, BMGI, half-day onsite interviews were conducted for the four finalists the week of September 14. All four finalist firms provide the basic functionality required and interviewed well. Reference checks were completed for all four finalist firms in order to identify any customer service or other performance issues that might differentiate one vendor from another. EnerGov and TRAKiT were identified for brief follow-up interviews based upon the responses from references. The follow up interviews provided clarification on additional software required by the vendor and reporting interfaces. Based on the interviews, reference checks, and Staff’s experiences, the ultimate vendor ranking is as follows:

1. TRAKiT (SunGard)
2. EnerGov (Tyler)
3. CityView (Harris)
4. Accela

Although TRAKiT was not initially the lowest bidder, they were identified as the preferred vendor for the following reasons:

- Location-centric database (i.e., all data stored by location making it easy to find)
- User interface is highly configurable based upon individual preference (“dashboard” concept)
- Integrates well with the City’s GIS system, utilizing our data
- Friendly public-interface (e-TRAKiT)
- Favorable references from local jurisdictions (Arvada and Parker)
- Highly configurable by the City’s Application Specialist reducing reliance on consultant support
- Focused on planning and permitting (does not try to be all things to all people)
- Organization of proposal (scope and approach for implementation and training are excellent)

The other three finalists, Accela, EnerGov, and CityView, were eliminated for the following reasons.

Accela – Although the City has worked with Accela over the last ten years with various levels of success, when given the opportunity to compare their support performance with other vendors, staff concluded that TRAKiT has a better performing support structure. Support performance was graded on several criteria including references, experience, and support call metrics.

In comparing Accela's price to other vendors using a measurement of services rendered for like deliverables, staff concluded that the Accela's price for deliverables was higher than the other vendors, eliminating any expected cost benefits of staying on the Accela platform. Accela's implementation service fees ranked higher than two of the applications, with TRAKiT ranking the lowest.

Additionally, Accela ranked lower on included GIS integration (a high priority criteria to enhance customer service) and the user interface. The staff concluded, after compiling all criteria rankings, that Accela would not deliver the desired objectives as well as TRAKiT.

EnerGov – EnerGov, like TRAKiT, is a location-centric system. It was also highly favored by Staff due to its intuitive interface and reliance on GIS data; however, ultimately Staff is not recommending EnerGov as Staff is not comfortable with EnerGov's use of Crystal reporting and the limited amount of local users who have gone live (i.e., lack of local references).

CityView – CityView was not recommended as it is not a web-based application and would need to be deployed on each user's PC. Installation and maintenance would place a cost on the IT Department Staff that raises the total cost of ownership. The application also did not rank as high in functional and user interface criteria.

TRAKiT – Since identifying TRAKiT as the preferred vendor in mid-October, Staff from Community Development and IT Departments, and the City Attorney's Office have worked closely with TRAKiT to refine the initial scope of work included in the response to the RFP. Changes to TRAKiT's initial scope of work include reducing the number of concurrent users to meet Staff's forecast need, ensuring integration with the City's credit card processor, cashiering, and Interactive Voice Response (IVR) telephone system, and adding hours for custom configuration and report generation. As currently drafted, the proposed fee is approximately \$503,000 (software and installation). Annual maintenance/support fees are approximately \$66,000/year, which will cover support for the entire Community Development Department (4 divisions). These fees would begin in 2017 and will be included in the upcoming 2017-2018 budget planning. Currently the City pays approximately \$37,000 to Accela for annual maintenance/support fees of the land management suite (plus other fees for the other suites used by other Departments) used only by the Building Division. Once TRAKiT is deployed, the City will no longer need to pay Accela for annual maintenance of the land management suite currently utilized by the Building Division. City Council members may have recently learned that 100% of SunGard, including their Financial Services, K12 Education, and Public Sector divisions were acquired by Fidelity National Information Systems. Acquisitions are not uncommon in the software business, and the City currently has several major software products which have been acquired and supported by multiple companies over the years. For example, the City's current Enterprise Resource Planning (ERP) system was developed by and originally purchased from JD Edwards. In 2003 JD Edwards was acquired by Peoplesoft, and in 2005, Peoplesoft was acquired by Oracle. The City continues to receive good support and frequent updates and enhancements to the ERP software from Oracle.

If the contract (Attachment A) is approved, the project will kick-off in January 2016. Originally, Staff anticipated completion of a new electronic permitting system for the Planning and Engineering Divisions in second quarter 2016. However, as noted previously, based on the evaluation of the electronic permitting systems and the recommendation to move forward with a comprehensive department-wide solution, including the replacement of the current Building Division software system, the implementation is anticipated to take approximately 9-10 months. This results in an anticipated go-live timeline of third quarter 2016. Staff believes an integrated department-wide system will greatly improve coordination and communication between divisions throughout the development review process, improving the overall process and experience for the customer.

The implementation of an electronic permitting system for the Department of Community Development will support the City's 2015 Strategic Plan Goals, including:

- *Visionary Leadership, Effective Governance and Proactive Regional Collaboration.* An electronic permitting system provides a tool for enhanced collaboration and transparent decision making. Applicants, the public, and other jurisdictions will all have access to plan/project information through the web-based portal.
- *Vibrant, Inclusive and Engaged Community.* TRAKiT's accessible public portal will provide our citizens another opportunity to participate in the development review process.
- *Beautiful, Desirable, Safe and Environmentally Responsible City.* Based on the results of other communities that have implemented an electronic permitting system, Staff anticipates a reduction of paper permit applications and submittal materials by over 50%. This will have a direct result in the reduction of paper waste. Additionally, vehicle trips from customers, as well delivery vehicles, will be reduced.
- *Financially Sustainable Government Providing Excellence in City Services.* The adoption of electronic permitting systems is a growing trend in municipalities. Additionally, many Front Range cities such as Thornton, Arvada, Parker, Boulder, Aurora, and Denver to name a few, have already implemented electronic permitting systems.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Contract for Electronic Permitting (License Order)

LICENSE ORDER

By the signatures of their duly authorized representatives below, the SunGard entity identified below and the customer identified below ("Customer"), intending to be legally bound, agree to all of the provisions of this License Order (the "Order"), and agree that this Order represents a separate contract between such SunGard entity and Customer, effective upon the latest date shown on the signature page below ("Order Execution Date"). This Order incorporates and is governed by all of the terms of the SunGard Standard Terms and Conditions as included with this agreement ("SST") as if the SunGard entity was "SunGard" and Customer was "Customer" thereunder.

Capitalized terms not defined in this Order have the meaning given them in the SST.

SunGard Public Sector Inc.	City of Westminster, CO
By:	By:
Print Name:	Print Name:
Print Title:	Print Title:
Date Signed:	Date Signed:

CUSTOMER # _____

SUNGARD ORDER # _____

SOLUTION AND RELATED INFORMATION

APPROVED AS TO LEGAL FORM:

1. **SOLUTION:** SunGard TRAKiT applications identified in Section 4(A) below. License Fees _____
2. **ORDER TERM:** Perpetual
3. **SCOPE OF USE:**
 - a) **COVERED SITES:**
This Agreement covers the following Customer sites: Westminster City Hall and Westminster Disaster Recovery Location
 - b) **COVERED CONFIGURATION**
This Agreement covers the following configuration:

____30____ Simultaneous Users for the Community Development Core Suite and ____5____ Simultaneous Users for the Regulatory Licensing Suite of the Solution purchased by Customer and installed on ____Unlimited____ workstations.
(Platform support Windows 7 Operating System).
 - c) **REGION:** UNITED STATES
4. **LICENSE AND INITIAL SUPPORT FEES:**

H. Abraham
 Title: Deputy City Attorney
 Date: 11-30-15
 File no.: _____

A. License Fees:

SEE PROJECT COST SUMMARY SUPPLEMENT, SECTION "A"

B. Support Fees for the licenses above:

YEAR	FEES
INITIAL SUPPORT TERM	No Charge
PLATINUM OPTION FIRST RENEWAL YEAR	\$65,895

Software Notes:

1. SunGard shall provide support services for the Solution. Support for the Initial Support Term is provided at no charge. The "First Renewal Year" Support Fee in the table above represents the support fee for the first Renewal Support Term and is payable only if Customer elects to extend the term through the first Renewal Support Term as provided for in Section 9.3 of the SST. Support Fees for subsequent Renewal Support Terms shall be governed by the provision of Software Notes paragraph 3 below, and are payable only if Customer elects to extend the term through the corresponding Renewal Support Term as provided for in Section 9.3 of the SST. Should additions to the number of licensed users or the Solution occur during the term of this Agreement or any extension thereof, SunGard shall adjust the fee to reflect the applicable changes and provide CUSTOMER with written notice of such fee change
2. Support fees indicated above are for SunGard's "Platinum" annual support services whereby, during the first Renewal Support Term or any Subsequent Support Term(s), Customer will have the option to receive up to two of the following services on an annual basis:
 - a. One(1) or two (2) additional days (remotely provided, eight hours maximum per day) of annual training;
 - b. One (1) day wellness visit (onsite, eight hours maximum, for which travel & living expenses will not be charged to Customer);
 - c. Up to eight (8) hours of Server migration assistance services (remotely provided);
 - d. Up to twenty (20) hours of customization services (remotely provided);
 - e. Up to fourteen (14) hours of custom report development services (remotely provided).
 - f. Notwithstanding anything to the contrary, the above services which are available under "Platinum" annual support shall not be used in lieu of any professional Services to be provided hereunder, as detailed under section 6 of this Order.
3. Support fees for licenses indicated in 4.B shall be considered the "base rate fee." Additional licenses or solutions acquired during the term of the agreement shall be added to the base rate fee at the then current fees for such additions. Beginning with the third renewal support term, SunGard may increase fees, subject to the following limits;
 - a. Fees shall not exceed the lesser of base year fee plus four percent (4%) for each subsequent renewal term, or the then current rates.
4. SunGard will provide to Customer during the Initial Support Term and any Renewal Support Term(s) at no additional cost (a) any and all enhancements, new releases, upgrades, versions which it develops with respect to the Solutions; and (b) the Documentation associated with any enhancements.
5. Subject to the provisions of the Support Supplement hereunder, on a when and if available basis, if SunGard upgrades the Solution to new technology or provides substantially similar functionality using new technology, then Customer has the option to migrate to such upgrade under the maintenance terms of this License Order for the functionality, scope and volume limits described herein at no additional charge. As is SunGard's normal practice, additional improvements that is included as part of our maintenance releases will be made available to Customer as well under maintenance. SunGard will not rebrand, rename or repack the Software (or substantially similar functionality using new technology) to avoid making it available under maintenance.

5. SUPPORT TERM:

- a. **INITIAL SUPPORT TERM:** 12 months from the Order Execution Date.
- b. **RENEWAL SUPPORT TERM(S):** Additional one year renewal periods commencing upon the expiration of the Initial Support Term (or anniversary thereof).

**6. PROFESSIONAL SERVICES:
SEE PROJECT COST SUMMARY SUPPLEMENT, SECTION "B"**

Professional Services Notes:

- 1. The services will be charged to Customer on a fixed fee basis subject to the maximum cost, exclusive of any applicable taxes. As used in this Section, "fixed fee" means that SunGard will provide the services selected by Customer and perform its obligations under this Agreement even if it is required to expend more than the number of hours used to determine the cost set forth in this Agreement and will not charge Customer for such excess hours. However, the cost will change if additional services are necessitated by changes to the scope of the project, or if Customer chooses additional services, software, or hardware following the Order Execution Date, or if Customer otherwise fails to cooperate with SunGard and/or perform its responsibilities as reasonable required through the course of the project. In no event will the cost to Customer of the work effort identified in the SOW exceed cost as set forth in this Agreement, unless agreed upon in advance in writing signed by authorized representatives of both parties.
- 2. Travel and living expenses are additional and will be billed monthly as SunGard Public Sector renders the services.

7. THIRD PARTY PRODUCTS: NONE

8. PAYMENT TERMS.

The amounts noted in the Project Cost Summary Supplement shall be payable as follows:

License Fee: 50% on the Order Execution Date, 25% upon Final Delivery as provided under Project Milestone number 39 hereunder and 25% upon go-live of the Solution as provided under Project Milestone number 69 hereunder.

Training Fees: On invoice, upon completion of each training task.

Professional Services Fees (excludes Training): On invoice, as incurred.

Annual Support Fees: Support Fees are due thirty (30) days prior to the commencement of the Initial Support Term or the Renewal Support Term, as applicable, for which such fees are being remitted.

9. ADDRESSES:

- a. **CUSTOMER ADDRESS FOR INVOICES:**
City of Westminster
Attn: Michelle Stephens
4800 W 92nd Ave.
Westminster, CO 80031

b. CUSTOMER ADDRESS FOR NOTICES:

City of Westminster
Attn: Michelle Stephens
4800 W 92nd Ave.
Westminster, CO 80031

With Copy To: City Attorney
4800 W. 92nd Ave
Westminster, CO 80031

c. CUSTOMER ADDRESS FOR SOFTWARE SHIPMENT:

City of Westminster
Attn: Larry Garlick
4800 W 92nd Ave.
Westminster, CO 80031

d. SUNGARD'S ADDRESS FOR NOTICES:

SunGard Public Sector Inc.
Attn: Contracts Manager
1000 Business Center Drive
Lake Mary, FL 32746

10. LIABILITY CAP: The total amount paid by Customer to SunGard under this Order, including license fees, support fees, and professional services, plus any direct damages caused in whole or in part by SunGard's gross negligence or intentional acts, but only to the extent of SunGard's pro-rata liability, as agreed upon by the Parties or as may be ordered by a court.

11. SPECIFIED CONFIGURATION: Host(s) or client server configuration(s) and/or combinations of host(s) and client server configuration(s) within the United States of America for which SunGard supports the Solution. Customer acknowledges that certain Solutions software may require specific host or client configurations. Customer, as soon as reasonably practicable, will provide a detailed written description of the specified configuration so that SunGard can confirm that it is a configuration on which SunGard supports use of the Solution.

12. OTHER TERMS APPLICABLE TO THIS ORDER:

PROJECT COST SUMMARY SUPPLEMENT
SUPPORT SUPPLEMENT
SUNGARD TRAVEL EXPENSE GUIDELINES
PROJECT SCOPE OF WORK
PROJECT MILESTONE SUPPLEMENT
INSURANCE SUPPLEMENT
SST TERMS AND CONDITIONS

PROJECT COST SUMMARY SUPPLEMENT

A. LICENSING

Core Suite	\$135,000	30	Users (concurrent)
GeoTRAK	Included		Core Suite
PermitTRAK	Included		Core Suite
ProjectTRAK	Included		Core Suite
AEC TRAK	Included		Core Suite
CodeTRAK	Included		Core Suite
CRM TRAK	Included		Core Suite
Regulatory Licensing Suite	\$15,000	5	Users (concurrent)
GIS Engine - Advanced	\$17,500	1	Module
Mobility			
ITRAKIT Suite	\$20,000	1	Module
eCitizen Portal	\$15,000	1	Module
Cashiering Suite – Standard Merchant	\$14,000	1	Module
ePlan Review Engine			
Server Engine	\$25,000	1	Modules
Integrations			
Laserfiche API	\$10,000	1	Module
Teleworks API	\$10,000	1	Module
Active Cashiering API	\$15,000	1	Module
Active WebPOS API	\$10,000	1	Module
 Sub-total:			\$ 286,500.00

B. SERVICES

Discovery Phase			
Upfront Remote Training	\$7,000	40	Remote Hours
Onsite Meetings	\$12,500	6	Onsite Days
Remote Reviews	\$10,500	60	Remote Hours
Configuration Phase			
Remote Configuration	\$31,250	175	Remote Hours
Testing Phase			
Onsite Training	\$10,000	5	Onsite days
Onsite Meetings	\$10,000	5	Onsite days
Remote Configuration	\$21,000	120	Remote hours
Education Phase			
Onsite End User	\$36,000	18	Onsite Days
Remote eTRAKiT Admin	\$1,400	8	Remote Hours
Onsite Administrator	\$2,000	2	Onsite Days
Onsite Report Writing	\$2,000	3	Onsite Days
Remote Administrator	\$0	0	Attendees
Remote Report Writing	\$0	0	Attendees
Launch Phase			
Onsite Go Live Assistance	\$8,000	4	Onsite Days
Data Conversion			
Assessor/GIS Connect	\$5,250	30	Remote hours

Accela Automation	\$21,000	120	Remote hours
Reports & Forms			
Standard Report Library	Included	100	reports
Customized Reports	\$8,750	50	remote hours
Permit Library	\$3,500	1	library
Enforcement Library	\$2,500	1	library
Plan Corrections Library	\$2,500	1	library
Regulatory License Library	\$3,500	1	library
Customizations/Integrations			
Enhancements	\$ 17,500	100	Remote Hours
 Sub-total:			\$ 216,150.00
<hr/>			
Total:			\$502,650.00
<hr/>			

APPLICABLE TAXES ARE NOT INCLUDED IN THE SUMMARY ABOVE, AND, IF APPLICABLE, WILL BE ADDED TO THE AMOUNT IN THE PAYMENT INVOICE(S) BEING SENT SEPARATELY TO CUSTOMER.

SUPPORT SUPPLEMENT

1. SunGard shall provide to Customer, during SunGard's support hours as set forth in the Support Standards below ("Support Hours"), telephone assistance regarding Customer's proper and authorized use of a new edition of a Solution or Custom Modification (the "Release"), as applicable.
2. SunGard shall provide to Customer, during the Support Hours, commercially reasonable efforts in solving Errors reported by Customer in accordance with this Order. Customer shall provide to SunGard reasonably detailed documentation and explanation, together with underlying data, to substantiate any Error and to assist SunGard in its efforts to diagnose, reproduce and correct the Error. These support services shall be provided by SunGard at Customer location(s) if and when SunGard and Customer agree that on-site services are necessary to diagnose or resolve the problem. If a reported Error did not, in fact, exist or was not attributable to a defect in the Solution or an act or omission of SunGard, then Customer shall pay for SunGard's investigation and related services at SunGard's standard professional services rates. Customer must provide SunGard with such facilities, equipment and support as are reasonably necessary for SunGard to perform its obligations under this Order, including remote access to the Specified Configuration.
3. Customer shall promptly install and/or use any Release provided by SunGard to avoid or mitigate a performance problem or infringement claim. All modifications, revisions and updates to the Solution shall be furnished by means of new Releases of the Solution and shall be accompanied by updates to the Documentation whenever SunGard determines, in its sole discretion, that such updates are necessary.
4. Support Surcharge Imposed In Certain Instances: At the commencement of any Renewal Support Term where Customer is operating on a Solution version that is more than two (2) general release versions behind the then-current release for any Solution, SunGard will assess a ten percent (10%) surcharge over and above the support fee for that Renewal Support Term, with such surcharge to be imposed on a prorated basis for the portion of the Renewal Support Term that Customer remains on a general release version that is more than two (2) releases behind the then-current release of the Solution in question. Once Customer is using a release that is no more than two (2) general release versions behind the then-current release, the support surcharge will be removed on a prospective basis, as of the date that Customer is using the release that is no more than two (2) general release versions behind the then-current release.

Support Standards

I. Support Hours: Hours During Which SunGard Public Sector’s Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance: Unless otherwise noted in the Order as to Support Type, support hours are Monday through Friday, 8:00 A.M. to 5:00 P.M. Customer’s Local Time within the continental United States, excluding holidays (“5x9”).

II. Targeted Response Times.

“Notification” means a communication to SunGard’s help desk by means of: (i) SunGard’s web helpline; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with SunGard’s then-current policies and procedures for submitting such communications.

With respect to SunGard’s support obligations, SunGard will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution or Custom Modifications identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable SunGard “Telephone Support” hour occurring after SunGard’s receipt of the Notification:

Priority	Description	Response Goal*	Resolution Goal*
Urgent 1	A support issue shall be considered Urgent when it produces a Total System Failure; meaning SunGard’s Solution/Custom Modification is not performing a process that has caused a complete work stoppage.	SunGard has a stated goal to respond within 60 minutes of the issue being reported and have a resolution plan within 24 hours.	Although resolution times vary depending on the exact issue and customer environment, SunGard has a stated goal to resolve an urgent issue within 24 hours or provide a resolution plan with urgent issues within 24 hours of the issue being reported.
Critical 2	A support issue shall be considered Critical when a critical failure in operations occurs; meaning SunGard’s Solution/Custom Modification is not performing a critical process and prevents the continuation of basic operations. Critical problems do not have a workaround. This classification does not apply to intermittent problems.	SunGard has a stated goal to respond within two hours of the issue being reported.	A resolution plan details the steps necessary to understand and possibly resolve the issue.
Non-Critical 3	A support issue shall be considered Non-Critical when a non-critical failure in operations occurs; meaning SunGard’s Solution/Custom Modification is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.	SunGard has a stated goal to respond within four hours of the issue being reported.	
Minor 4	A support issue will be considered Minor when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system.	SunGard has a stated goal to respond within 24 hours of the issue being reported.	

** Measured from the moment a Case number is created. As used herein a “Case number” is created when a) SunGard’s support representative has been directly contacted by Customer either by phone, email, in person, or through SunGard’s online support portal, and b) when SunGard’s support representative assigns a case number and conveys that case number to the Customer. Customer must provide remote access to its facility using a SunGard approved remote access client so that SunGard can perform the support obligations and/or services under this Order; and will provide appropriate security access and accounts for SunGard staff and each session participant.*

SUNGARD TRAVEL EXPENSE GUIDELINES

SunGard will adhere to the following guidelines when incurring travel expenses:

All arrangements for travel are to be made through the SunGard Corporate Travel Agent unless other arrangements have been made with the Customer and are documented in writing.

AIR TRAVEL – SunGard will use the least expensive class of service available with a minimum of seven (7) day, maximum of thirty (30) day, advance purchase. Upon request, SunGard shall provide the travel itinerary as the receipt for reimbursement of the air fare and any fees. Fees not listed on the itinerary will require a receipt for reimbursement.

Trips fewer than 250 miles round are considered local. Unless a flight has been otherwise approved by the Customer, Customer will reimburse the current IRS approved mileage rate for all local trips.

LODGING –Reasonable lodging accommodations are reimbursable, up to \$125 per night. If, depending on the city, reasonable accommodations cannot be secured for \$125 per night, Customer’s prior approval will be required. Upon request by Customer, the hotel receipt received upon departure will be submitted for reimbursement. All food items, movies, and phone/internet charges are not reimbursable.

RENTAL CAR – Compact or Intermediate cars will be required unless there are three or more SunGard employees sharing the car in which case the use of a full size car is authorized. Gas is reimbursable however pre-paid gas purchases will not be authorized and all rental cars are to be returned with a full tank of gas. Upon request, receipts for car rental and gas purchases will be submitted to Customer. SunGard shall decline all rental car insurance offered by the car rental agency as staff members will be covered under the SunGard auto insurance policy. Fines for traffic violations are not reimbursable expenses.

OTHER TRANSPORTATION – SunGard staff members are expected to use the most economical means for traveling to and from the airport (Airport bus, hotel shuttle service). Airport taxi or mileage for the employee’s personal vehicle (per IRS mileage guidelines) are reimbursable if necessary. Upon request, receipt(s) for the taxi will be submitted to Customer. Proof of mileage may be required and may be documented by a readily available electronic mapping service. The mileage rate will be the then-current IRS mileage guideline rate (subject to change with any change in IRS guidelines).

OTHER BUSINESS EXPENSES – Parking at the airport is reimbursable. Tolls to and from the airport and while traveling at the client site are reimbursable. Tipping on cab fare exceeding 15% is not reimbursable. Porter tips are reimbursable, not exceeding \$1.00 per bag. Laundry is reimbursable when travel includes a weekend day or Company Holiday and the hotel stay is four nights or more. Laundry charges must be incurred during the trip and the limit is one shirt and one pair of pants/skirt per day. With the exception of tips, receipts shall be provided to Customer upon request for all of the aforementioned items.

MEALS

\$52.00 per day Standard Per Diem

 \$10.40 – Breakfast

 \$13.00 – Lunch

 \$28.60 – Dinner

PROJECT SCOPE OF WORK

Project Overview

The project will go through the following stages of Kick Off > Review > Configure > Test > Train > Go-Live and will have its own milestones as identified in the PROJECT MILESTONE SUPPLEMENT. Throughout all stages, the Customer's main point of contact at SunGard will be its Project Manager. Should the assigned project manager be unavailable, SunGard will provide an experienced Project Manager in place, with the approval of the Customer. The SunGard Project Manager will be responsible for the overall success on the SunGard side, and will coordinate SunGard resource tasks and schedule. As the Customer's primary contact, the SunGard Project Manager will be present for all regularly scheduled status calls. He/she will defer to other subject matter experts for data migration, training, etc. Any issues will be escalated to the Project Manager in the event that the Customer's needs are not being met. For any disputes, the parties' respective Project Managers will meet in an effort to resolve the dispute. Failing resolution at that level within a specified timeframe, the Project Managers create a written description of the dispute, and that description is submitted to designated more senior personnel in each organization, including SunGard's Director of Operations. Those individuals then meet in person in an effort to resolve the dispute. Failing their ability to resolve the dispute in a specified timeframe, the individuals submit written descriptions of the dispute to senior management personnel from each organization, including SunGard's Vice President. The senior management personnel from each organization then meet in an effort to resolve the matter within a specified timeframe. Failing that effort, each party can then pursue its respective rights and remedies at law, subject to the provisions of this Agreement.

In situations where Customer believes that the SunGard personnel provided are not qualified, Customer shall inform SunGard's General Manager and/or SunGard's Executive Vice President in writing to include some reason for their dissatisfaction. Possible remedies may include the replacement of the SunGard person providing the service and/or supplementing the person providing the training with another trainer.

Delivery Overview

- Data conversion from single land management database and the Accela Automation systems
- Create & Track Licenses/Permits/Projects/Code Enforcement Cases/Licensing
- Provide ePlan review functions digitally (Bluebeam integration)
- Automated and manual workflow
- Mobile inspection (iTRAKIT)
- Reports & letters
- Online web portal for permit visibility & inspection scheduling, including permit application or payment acceptance (eTRAKIT)
- Integration with central cashing Active Network's Class application
- Integration with Active's online payment portal
- Integration with ArcGIS Server, including schema changes that must be completed
- IVR Teleworks inspection management Integration
- Laserfiche DMS integration

Duties & Responsibilities of Customer

Customer will provide all information necessary for SunGard to establish the software's configuration, including but not limited to:

- (1) Current valuation and fee structures;
- (2) Current Permit, Project, and Case type designations and categories;
- (3) Examples of all current reports used by the Customer relating to business process management;
- (4) Any exceptions to the typical business processes, or any special lifecycle requirements.

The Customer will provide SunGard with access to Customer workstations, servers, and disk space for the purpose of SunGard deploying the acquired Software. Customer workstations and servers must be compatible with software configurations requested by SunGard. SunGard may, at its discretion, provide a workstation to be deployed on the Customer's network for the purpose of demonstrating the configuration of the acquired Software.

The Customer will ensure and provide staff who will be trained in use of SunGard software will have sufficient basic knowledge of existing business processes and MS-Windows functions.

Customer understands that timely completion of the Project is dependent in significant part upon the timely cooperation of Customer in providing information to SunGard necessary to complete the project, including, but not limited to: (a) Data obtained from Customer's present system to be incorporated into the new SunGard software; and (b) information relative to desired letters/reports to be incorporated into the SunGard software.

Stages & Milestones

Each phase will follow its own project life cycle with its own project stages.

Kick Off / Review

Begins: Notice to proceed from Customer
Ends: Workbook completion and 3rd party integrations sign-off by Customer and SunGard and all data/documentation provided by Customer
Description: This stage of the project involves discussing and documenting how the business processes and systems will function. It will include meetings, both in person and remote, between the SunGard PM and Customer team. The Customer will fill out workbooks based on discussions and guidance from SunGard. The SunGard PM will be the Customer's main point of contact, and is responsible for the overall design of the system. SunGard's data migration team will work with Customer staff to map and document data to be migrated into TRAKiT.

During this stage of the project, SunGard will create a project plan. This project plan will outline tasks, SunGard resource roles, Customer resource roles, duration, dependencies and start/end dates throughout the project. It will be used to help the Customer plan its own internal task scheduling as well as provide shared visibility into timelines as the project progresses. SunGard will be responsible for updating the project plan each week following a status update call with the Customer.

Primary Responsibilities for Customer:

- Communicate project goals, value, schedule internally
- Assist in developing project schedule / milestone dates
- Purchase/install system infrastructure and provide appropriate access (VPN, etc.)
- Ensure that all appropriate subject matter experts participate in all relevant discussions
- Provide process flows, source data, and documentation in a timely manner
- Make informed business decisions in a timely manner
- Complete workbooks with assistance from SunGard
- Provide contact information for any relevant 3rd parties

Primary Responsibilities for SunGard:

- Conduct kick-off meeting with Customer
- Provide hardware specifications for optimum TRAKiT system performance
- Provide iTRAKiT connection requirement and methodology
- Install base software with demonstration data
- Creation and maintenance of shared project plan
- Organize and lead design sessions with Customer. As permitting consultant and expert on TRAKiT software, provide guidance on best practices, changes to increase efficiency, and challenge Customer's current processes and way of thinking.
- Document TRAKiT configuration requirements, functionality and workflow
- Document interface requirements/mappings
- Services to be provided do not include hardware

Configure

Begins: Workbook completion and 3rd party integrations sign-off by Customer and SunGard and all data/documentation provided by Customer.

Ends: Customer sign-off on Testing Begins letter.

Description: SunGard will be responsible for configuring TRAKIT, while the Customer will be responsible for coordinating any 3rd party vendors and developing any documentation required for system testing. SunGard will communicate with 3rd party vendors as necessary to complete integrations. All communication between the Customer and SunGard in this stage is anticipated to be done remotely. The SunGard PM will be the Customer's primary contact with other SunGard resources utilized as-needed.

Primary Responsibilities of Customer:

- Coordinate configuration / development of any 3rd party vendors
- Develop standard operating procedure (SOP) documentation
- Develop testing and training plan
- Participate in weekly status calls

Primary Responsibilities of SunGard:

- Perform agreed-upon configuration / data migration
- Coordinate additional information from Customer as needed
- Lead weekly status calls with Customer
- Maintain shared project plan
- Communicate with 3rd party vendors as necessary to complete integrations

Test / Initial Training

Begins: Customer sign-off on receipt of Testing Begins letter.

Ends: Customer sign-off on Testing Ends Letter.

Description: This stage of the project will begin with a SunGard training expert coming onsite to perform Power User training with Customer staff. The Customer will then begin its testing process, notifying SunGard as issues / questions arise. There will be remote communication between the Customer and SunGard PM regarding issues and their resolution, with a shared portal so that all team members have visibility to the complete list. SunGard will provide revised delivery(s) for configuration and data integration as needed. During this stage, the Customer will also be testing integration with other 3rd party systems. The Customer will be responsible for communicating issues / resolution with all relevant vendors. The SunGard PM will remain the Customer's main point of contact, but this stage will likely see increased involvement from other SunGard team members for testing support.

Primary Responsibilities of Customer:

- Provide key staff availability and appropriate facilities for training and testing
- Execute all phases of testing plan, including 3rd party integration
- Provide constructive, detailed feedback to SunGard based on testing results
- Coordinate issues / resolution to 3rd party vendors
- Amend training plan / SOPs as needed
- Participate in weekly status calls
- Participate in system administration and report writing training onsite in Westminster, CO
- Lead end-user training sessions

Primary Responsibilities of SunGard:

- User training for Power User Testing
- Assist Customer with questions / issues on as-needed basis
- Provide issue tracking portal for team member visibility to issues/status/resolution
- Provide iterative configuration / data migration deliveries based on testing feedback
- Lead weekly status calls with Customer

- Maintain shared project plan

Final Training / Go-Live

Begins: Customer sign-off on completed Testing Ends letter.
Ends: Customer sign-off of completed post go-live follow-up visit from SunGard and no outstanding systems issues
Description: This stage of the project involves using the system in production. The Customer and SunGard will agree upon a go-live week during which the Customer will cease use of Accela and will begin using TRAKIT for production use. Immediately prior to go-live, SunGard and the Customer will perform data migration from legacy system(s) into TRAKIT.

The Customer will begin production use of TRAKIT with the SunGard PM onsite for support. Although other SunGard team members will likely be involved with support tasks and the resolution of issues, the SunGard PM will continue to be the Customer's main point of contact throughout Go-Live until the system stabilizes and all issues are resolved. A follow-up visit is performed by the SunGard PM roughly 45 days after go-live. The purpose of this visit is to analyze system performance and usage by Customer staff, and to provide any suggestions or facilitate configuration changes that would improve attainment of the Customer's goals.

Primary Responsibilities of Customer:

- Coordinate historical data migration with SunGard
- Coordinate internal and external communication of Go-Live plan and potential business impacts
- Provide staff availability for end-user training
- Follow standard operating procedures
- Provide staff availability for rapid issue response
- Work collaboratively with SunGard team to rapidly solve any production issues as they occur

Primary Responsibilities of SunGard:

- Convert historical data prior to go live
- Provide onsite go-live support
- Work collaboratively with Customer team to rapidly solve any production issues as they occur
- Provide issue tracking portal for team member visibility to issues/status/resolution
- Lead weekly status calls with Customer
- Maintain shared project plan
- Perform follow-up visit
- Provide system administration training onsite in Westminster, CO.

Deliverables

Upon the Order Execution Date, SunGard shall perform the following services:

A. On-Site attendance and participation in project meetings.

Meetings: Project kick-off meeting; business process reviews; software installation; database installation; project implementation meetings.

On Site Days: Customer changes to scheduled travel days within 14 days of project schedule may incur increased travel expenses.

B. Deliver computer software (TRAKiT) and database structures for SQL/Server database.

Deliverable: Computer software; installation instructions; services to install software on Customer network; services to install SQL/Server database and tables. SunGard does not configure/install any hardware.

B.1. Provide eTRAKiT modules for web-based Citizen/Contractor permit processing.

Deliverable: Requires a separate web server hosting the ASP.NET pages to provide the following functions:

- (1) Includes one (1) standard printable Permit Form for online customers. Changes to permit form will incur an additional cost.
- (2) Allows for submittal of online applications for permits and projects, along with plan uploads.
- (3) Request inspections as a Contractor or Citizen.
- (4) Review inspection, review, condition, fee statuses and updates.
- (5) Submit complaints. Requires CRM TRAK module.
- (6) Interact with Customer GIS maps.
- (7) Create user logins for citizens and/or contractor login.
- (8) Inspector login to change/input results.
- (9) Reviewer login to update review notes and status results.

B.2. Provide iTRAKiT Inspect and iTRAKiT Code modules for field-ready iPad interface.

Deliverable: iTRAKiT module for iPad to provide the following functions:

- (1) Login as TRAKiT Inspector.
- (2) Complete and result scheduled PermitTRAK inspections from the field.
- (3) Utilize in off-line mode without internet connection (GIS will not update).
- (4) Provide access to Google Maps (requires connection).
- (5) Calculate efficient route utilizing Apple Maps to Google routing.
- (6) Upload photos from iPad, and view associated attachments (requires connection).
- (7) Email inspection results.

B.3. Provide API for digital plan markup.

Deliverable: SunGard will integrate with the Bluebeam software using standard scripting (bFX and bAX file formats) and server workflows (Bluebeam Q) currently offered by Bluebeam. Customer will license Bluebeam Revu Standard and Bluebeam Q separately from Bluebeam directly (not being licensed directly from SunGard) for Customer's integration needs.

Customer will use Bluebeam for markup/annotation purposes of any submitted plans and documents (Plans).

1. Plans can be submitted either in-person by customer or via the eTRAKiT portal.
 - a. After a submittal through eTRAKiT, the user will see the attachment (PDF) for viewing within TRAKiT.
 - b. New reviews will be created within TRAKiT and assigned to specific Reviewers for follow-up during the initial application intake process of eTRAKiT.
 - c. When the user is reviewing, they will see any corresponding attachments in TRAKiT.
2. Viewing and opening attachments in TRAKiT.
 - a. Only applies to PDF document submittals.
 - b. TRAKiT user will see a button next to any PDF documents allowing the user to "Open in Bluebeam."
 - i. Bluebeam Revu must be installed on the Customer user's workstation for Bluebeam software to open.
 - c. Attachment will be sent to Bluebeam and opened on the user's workstation.
 - d. User will markup, comment, and annotate within Bluebeam Revu software.
 - e. User will use "Save" function to save their work back to TRAKiT's attachments.
 - i. TRAKiT application must be accessible to the user's Intranet. Or the TRAKiT Application server must be exposed to the internet for post-back.
 - ii. Comments, markups, and annotations will remain within Bluebeam software and not copied back into TRAKiT.
 - f. Multiple departments are able to work on the same plans simultaneously and save comments separately.
 - i. Standard notes from TRAKiT will not incorporate with Bluebeam Revu. These would need to be exported and imported to each user's desktop as a Toolkit component if required.
3. Resubmittals of plans from customer will be stored in the TRAKiT attachments.
 - a. TRAKiT user will see a checkbox next to each attachment and a button, "Copy Previous Revisions," allowing the prior comments from a previous iteration to be copied onto the newest plan set.

- b. The PDF will then be opened in Bluebeam Revu for editing/confirmation of previously noted issues.
 - c. User can use Bluebeam's statuses to determine which issues have been resolved, or are still pending.
4. Compare between two (2) PDF versions.
- a. TRAKIT user will see a checkbox next to each attachment and a button for "Compare," opening both versions into Bluebeam Revu.
 - b. Both PDFs will appear in a side panel within Bluebeam. User will see the following details within the panel:
 - i. Attachment names
 - ii. TRAKIT logo
 - iii. Permit/Project #
 - iv. Record Description
 - c. User will then select "Overlay" function in Bluebeam to compare the two PDFs.
5. Permit Technician/Project Owner will have function to flatten and finalize plans via Bluebeam Revu.
6. If desired, the user can set the document to be visible in eTRAKIT.

B.4. Integration to ArcGIS

- Deliverable: The TRAKIT Standard GIS Viewer is delivered with features to enable your agency to manage all development activities such as permits, projects, land management, code enforcement, licensing, and inspections directly from the parcel featureclass. Some features are included below:
- (1) Accessible from any TRAKIT module
 - (2) View restrictions for a parcel
 - (3) Zoom in/zoom out control
 - (4) Use the mouse wheel to zoom
 - (5) Full Map button allows immediate access to full map extents
 - (6) Add new restrictions to a single parcel or multiple parcels at once
 - (7) Functionality allowing the addition, removal, or copying of records
 - (8) Allows the selection of multiple records at one time
 - (9) Create multiple records at once with unique record numbers
 - (10) Selection List for adding/removing parcels from a selection
 - (11) Map overview window to easily navigate around screen
 - (12) Print Map view using a print template
 - (13) Query and plot TRAKIT data on the map
 - (14) Allows user to pan around the map
 - (15) Change the properties of the measurement (metric, feet, acres, etc.)
 - (16) Export the selection list into Excel
 - (17) Use Dynamic or Tiled Map services
 - (18) Select parcels by circle, polygon, line, etc.
 - (19) View a list of parcels selected within a separate window
 - (20) Ability to use "sketching" tools on map (different colors, transparencies, pushpin images)
 - (21) Draw polygons, shapes, squares and lines on map
 - (22) Insert text directly on the map
 - (23) Can see related record details (permits, cases, projects, etc.) of the parcel
 - (24) Clear Selection allows user to clear the selected list
 - (25) Show Data displays all attributes at the selected parcel
 - (26) Print reports, labels, or letters for the selected parcel group
 - (27) Radius Notification allows a buffer distance to be selected for multiple parcels
 - (28) View a "pop-up" window with details about current selected parcel
 - (29) Look at streets with Google® Maps Street View (requires Google key)
 - (30) View pictometry with Microsoft® Bing Maps
 - (31) Create a query and save custom queries for visually displaying details
 - (32) Quickly run a saved query from the Advanced Search
 - (33) Associate different user-specific Bookmarks based on different views
 - (34) Administrators can change map preferences and import different GIS data
 - (35) View attribute data for any layer
 - (36) Route daily Inspections (requires Network Analyst)
 - (37) Search for properties based on user defined criteria without leaving the map

- (38) Export the map into a JPEG
- (39) Add external map services
- (40) Advanced Table of contents with layer visibility toggle and legend
- (41) Integrates with the City of Westminster's Geocode services
- (42) Incorporate push-pins to the map (associate custom push-pins)
- (43) spatialAdvisor Engine used to configure workflows from feature classes.

C. Provide data conversion services.

Deliverable: Electronic transfer (via FTP or email) of converted database; services to develop conversion software for translation; services to perform data conversion; services to install converted data; services to investigate and correct any errors uncovered during conversion balancing and/or system testing. SunGard does not guarantee the quality of the source data received, but makes reasonable effort to convert all data in the original source that it is provided. SunGard will assist customer in identifying data to be converted based on their previous experience.

Applies to: Land data from a single source, historical data in Accela Automation.

Customer will:

- (1) Provide to SunGard all tables and files that are necessary for historical data conversion.
- (2) Provide all necessary files and data to SunGard within thirty (30) days of project commencement date.
- (3) Sign off on Data Conversion Data Mapping Specification provided by SunGard.
 - a. While minor changes to this Specification are allowed through the testing period at no additional cost, Customer acknowledges that they will thoroughly review the document, and that the conversion mapping and methodology is correct to the best of Customer's knowledge. Minor changes include:
 - i. Modifying translation logic for data sources that are included in this document;
 - ii. Converting tables/fields that were previously thought to be unnecessary for conversion, provided those data sources are included in the Specification.
 - b. Major changes will incur an additional cost. Major changes include:
 - i. Requirements to convert additional data sources;
 - ii. Modifications to structure of data sources, including field names or data types;
 - iii. Changes requested after the deadline for issue submission;
 - iv. Fundamental changes to conversion methodology as determined by SunGard.
- (4) Thoroughly test data converted by SunGard after each delivery (total of 4 deliveries), and report issues within the timeframes agreed in the Project Schedule. In the event that unplanned data conversion activities are required, then SunGard and Customer will mutually agree on an appropriate change in project cost and schedule.

D. Provide software training.

Customer to provide classroom space, workstations, and networked access to the server for all on-site classes at Customer facilities. If Customer does not have hardware for conducting training, then SunGard can provide onsite laptop labs for an additional cost. Training plans are discussed with customer up to 3 weeks prior to onsite training. Training plans are finalized the week prior to onsite attendance.

Deliverable: Conduct two (2) days of on-site, hands-on System Administrator training at Customer office. Class size is limited to eight (8) students per day.

Deliverable: Conduct three (3) days of on-site, hands-on Report Writing training at Customer office. Class size is limited to eight (8) students per day.

Deliverable: Conduct five (5) days of on-site, hands-on Power User training at Customer office. Class size is limited to eight (8) students per day.

Deliverable: Conduct seventeen (17) days of on-site, hands-on End User training at Customer office. Class size is limited to eight (8) students per day.

E. Provide Project Implementation services.

E.1. Custom forms, reports, and routines

Forms/reports must be identified no later than the beginning of the Testing Phase of project.

Deliverable: Utilize up to fifty (50) hours of custom report modifications, as directed by Customer staff; provide standard (ICC or other) Valuation tables; develop custom valuations and fee formulas as directed by Customer staff, using information provided by Customer.

Deliverable: Provide one hundred (100) standard reports from TRAKIT's library, along with standard Permit Library, Enforcement Library, and Plan Corrections Library. Permit Library includes a standard Permit Form, Certificate of Occupancy, Receipt, Invoice, and Inspection Results Letter. Enforcement Library includes a two (2) standard Violation Letters. Plan Corrections Library includes a standard Plan Correction Notice and a standard Planning Commission Staff Report.

Deliverable: Installation of forms, fee tables, types, inspections, and valuation tables in TRAKIT database.

Deliverable: Data import specification (using standard TRAKIT import function) for monthly updates of assessor records.

Customer to provide information regarding fee formulas, usage, permit and project forms.

Customer agrees to provide all necessary custom report and custom form definitions to SunGard within thirty (30) days of project commencement date.

E.2. Deliver integration to Active Cashiering.

Deliverable: Provide a license to Customer for use with the TRAKIT REST API – web services, which will allow Active to integrate Active's Cashiering system to TRAKIT. This license only covers interaction with TRAKIT business rules related to fees. Telephone support is included for the Customer and Active. Integration steps include:

- 1) Cashiers will enter a permit number, project number, etc. into the Active cashiering system.
- 2) Active software will query the TRAKIT REST API web services to return all fees that are due, including GL account information.
 - a. This scope does not include any work required from Active to provide integration with the TRAKIT REST API.
- 3) Cashier will collect the funds and update the Active software as needed.
- 4) Active software will update TRAKIT using the TRAKIT REST API web services, by marking the fees with an appropriate status (e.g. fee is paid) and an indication that the transaction was made through Active.

E.3. Provide eTRAKIT integration to Active's Web POS.

Deliverable: Provide the ability for an online user to pay permit fees through eTRAKIT, either during application process or at a later time. SunGard will provide a web shopping cart for integration with Customer's Active software. Integration steps include:

- 5) Customer will begin application process within eTRAKIT.
- 6) As part of the application process, the customer will confirm the fees to be paid.
- 7) Selecting 'Pay' will submit the transaction to Active software via web services built and hosted by Active.
- 8) Active returns a Success or Fail message to eTRAKIT.
- 9) Active redirects customer back to eTRAKIT.
- 10) eTRAKIT notifies customer of transaction success or failure and updates TRAKIT as appropriate.
- 11) Active agrees to provide tech support to CLIENT and SunGard Public Sector as needed.

E.4. Deliver integration to Laserfiche Document Management System

Deliverable: Real-time exchange of attachments moved from TRAKIT into Laserfiche's storage. Custom interface design to be specified between SunGard and Customer. SunGard will provide necessary assistance to customer and/or vendor working on this integration to ensure the objective of the integration with TRAKIT is achieved.

Customer will ensure that the product/license is up to date to take advantage of SunGard's integration.

E.5. Deliver integration to Teleworks IVR System.

Deliverable: Provide SunGard's API integration with the Teleworks inspection scheduling application. Customer will ensure that the product/license is up to date to take advantage of SunGard's integration. SunGard will provide necessary assistance to Teleworks to make sure the API is being used correctly for the objective of the integration.

Teleworks would be used to take in phone scheduling of inspections only (eTRAKiT would be used for web scheduling). In addition to creating the inspection in TRAKiT, there would need to be validation against TRAKiT logic from Teleworks to determine if the date/time chosen via phone was available for the specific permit type.

PROJECT MILESTONE SUPPLEMENT

Target dates on this schedule are intended to reflect projected completion dates for the respective milestone. The time periods indicated are provided as a general understanding of the estimated time period in which various Project items will be completed. Should these represented dates not be executed on the agreed upon dates, then the entirety of the subsequent milestone dates will be moved accordingly.

The time schedule provided herein is based in large part on the assumption that Customer will provide all necessary information to SunGard in a timely manner.

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
1. Contract Execution	Customer signs contract.	SunGard signs final contract.	TBD
2. Delivery of TRAKiT software and License Key		SunGard provides FTP access to facilitate data exchanges with Customer. SunGard delivers Customer software and license key via the FTP site.	Order Execution Date
3. Project Hand-Off Call	Customer reviews and sets initial Project Timeline dates with SunGard.	SunGard & Customer review Project Timeline; SunGard delivers electronic copies of Configuration Guide.	TBD
4. Confirm Hardware & Required Systems	Customer provides confirmation that all required hardware, servers, database systems, and related components are ready.	SunGard reviews hardware specifications with Customer; SunGard confirms remote access.	TBD
5. Initial Data Extract	Customer uploads all legacy databases quoted in the contract to SunGard's FTP site.	SunGard reviews initial data upload.	TBD
6. Project Timeline Sign-Off SIGN OFF	Customer signs-off on remaining project milestone dates.	SunGard provides Customer with timeline dates.	TBD
7. Software Installation	Customer provides remote access to servers.	SunGard installs all TRAKiT software on Customer servers. One workstation will also be tested.	TBD
8. Database Consultation SIGN OFF	Customer conducts meeting with SunGard to discuss the data conversion process and a brief review of the data structure. Customer signs-off on Data Source Document.	SunGard provides suggestions to ensure expectations are reviewed.	TBD
9. GIS Consultation SIGN OFF	Customer conducts meeting with SunGard to discuss the delivery expectations for GIS data.	SunGard offers suggestions to ensure expected delivery is achieved. SunGard provides a sample 'Map Template' to be used within TRAKiT GIS.	TBD
10. Map Template Delivered		The sample map template is also delivered to the client.	TBD
11. Delivery of Geodatabase	Customer uploads geodatabase onto SunGard's FTP site for data mapping.	SunGard begins mapping the source tables to the TRAKiT structure.	TBD

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
12. Screenshots of Existing Software	Customer provides screenshots of existing software that relate to the data conversion process.	SunGard reviews screenshots and begins mapping of data; SunGard prepares data mapping document to submit to Customer.	TBD
13. Demo Existing Legacy Systems	Customer conducts an overview of their existing system for SunGard.	SunGard reviews current legacy systems with Customer.	TBD
14. Remote Webinar Training Series	Customer attends and participates in remote 2-hour webinar training sessions for each Core Team.	SunGard conducts webinar training sessions prior to onsite meeting.	TBD
15. Kick-Off Meeting ONSITE	Customer attends and participates in Kick-Off Meeting, which includes a review of the Configuration Guide and Workbook.	SunGard conducts Kick-Off meeting onsite. Reviews Configuration Guide with all Departments, and assists in completing GeoTRAK data fields. SunGard provides workflow samples for future discussions.	TBD
16. 1st Workbook Review Remote Discussion	Customer Departments attend review meetings with SunGard.	SunGard conducts a review of business processes with each Department. SunGard ensures that the Configuration Workbook is being updated.	TBD
17. 1st GeoTRAK Workbook Review	Customer reviews land data mapping details and configuration information with SunGard.	SunGard reviews configuration workbook and provides feedback as applicable.	TBD
18. Initial Workflows	Customer provides initial workflows from various Departments for review.	SunGard reviews initial workflows submitted for Business Process Meeting.	TBD
19. Business Process Review Meeting ONSITE	Customer provides business process workflow and corresponding reports/forms used in daily activities. Sessions are divided among various Departments implementing TRAKIT.	SunGard assists the Customer with Workbooks, identifies process adaptations, and reviews specifications for reporting requirements.	TBD
20. 1st Draft of Data Mapping Document ONSITE	Customer to review data mapping document and, when required, participate in a comparison review of legacy data with SunGard.	SunGard to review initial draft of data mapping document with Customer.	TBD
21. 2nd GeoTRAK Workbook Review	Customer reviews the finalized GeoTRAK workbook.	SunGard reviews workbook and provides additional feedback as applicable.	TBD
22. eTRAKiT Credit Card Gateway	Customer provides SunGard with eTRAKiT credit card gateway information for integration.	SunGard reviews credit card portal and prepares a scope for expectations.	TBD

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
23. 2nd Workbook & Workflow Review Remote Discussion	Customer Departments attend review meetings with SunGard.	SunGard conducts a review of business processes with each Department. SunGard ensures that the Configuration Workbook & Workflows are being updated.	TBD
24. 2nd Draft of Data Mapping Document	Customer to review data mapping document for legacy data provided by SunGard.	SunGard to review draft of data mapping document with Customer.	TBD
25. Final GeoTRAK Workbook Review	Customer submits and reviews the finalized GeoTRAK workbook.	SunGard reviews workbook and provides additional feedback as applicable.	TBD
26. Final List of Forms/Reports Due	Customer delivers final list of forms and reports and defines custom scripts for additional requirements to SunGard to design.	SunGard reviews custom forms and reports based on contract requirements.	TBD
27. GeoTRAK Workbook Final Collection	Customer provides final version of GeoTRAK workbook, including all mapping, custom screen, and spatial join requirements.	SunGard collects GeoTRAK workbook, completes those spatial joins being handled by SunGard, ensures that mapping is consistent with discussed process.	TBD
28. 3rd Workbook & Workflow Review Remote Discussion	Customer Departments attend review meetings with SunGard.	SunGard conducts a review of business processes with each Department. SunGard ensures that the Configuration Workbook & Workflows are being updated.	TBD
29. Workbook Review Meeting ONSITE	Customer provides Workbooks and copies of needed forms/reports; Customer attends department meetings to offer insight into workflow; Customer provides complete set of source data for conversion.	SunGard collects Customer responses to Workbooks; SunGard conducts Department meetings to ensure understanding of responses and discuss procedural needs; SunGard reviews data to convert with Customer.	TBD
30. GeoTRAK Pre-Conversion Review	Customer participates in the pre-conversion review.	GIS Specialist and Data Conversion Specialist review GeoTRAK workbook to clarify mapping and conversion details.	TBD
31. Project Workbook Draft	Customer provides their completed Project Workbook.	SunGard reviews the submitted workbook.	TBD
32. GeoTRAK Workbook SIGN OFF	Customer signs-off on GeoTRAK workbook.	SunGard provides finalized GeoTRAK workbook for Customer sign-off.	TBD
33. Initial Forms/Reports Scope SIGN OFF	Customer participate in a review of the Forms/Reports requirements and signs-off on	SunGard provides the Forms/Reports Scope for Customer sign-off.	TBD

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
	the initial Forms/Reports Scope.		
34. Project Workbook SIGN OFF	Customer signs-off on final version of the Workbook.	SunGard will utilize the Workbook in configuration of the system.	TBD
35. Final Data Mapping Document SIGN OFF	Customer approves data mapping document after a review with SunGard's data conversion specialist.	SunGard to provide data mapping documents, layouts, and explanations.	TBD
36. Map Services Delivered	Customer delivers Map services to SunGard prior to Initial Delivery. Map services may include: <ul style="list-style-type: none"> - iTRAKiT map service for LAT/LON coordinates - eTRAKiT map service - TRAKiT data map service - TRAKiT visual map service 	SunGard configures Map services with data.	TBD
37. System Configuration	Customer participates and provides additional information as needed by SunGard.	SunGard configures system according to Workbook responses and meeting discussions; SunGard converts historical data; SunGard creates/customizes reports and/or forms (e.g. Permit Form).	TBD
38. iTRAKiT Services Delivered	Customer finalizes hardware configuration for iTRAKiT remote installation/testing.	SunGard remotely installs iTRAKiT Services on Customer Server.	TBD
39. Initial Delivery ONSITE	Customer will attend the demonstration of the delivery.	SunGard installs and demonstrates configured system with various Departments. eTRAKiT validation/preferences are reviewed with Customer.	TBD
40. Workflow Processes Delivered	Customer receives written workflow processes from SunGard.	SunGard delivers a sample set of workflow processes to Customer for review and use during Training.	TBD
41. Power Users Trained ONSITE	Customer will provide meeting space and training computers for up to eight (8) staff.	SunGard provides training materials for initial system configuration.	TBD
42. Testing Begins SIGN OFF	Customer "Power" Users verify accuracy and placement of converted data, forms & reports; Customer tests software configuration; Customer tests program interfaces; Customer tests software customizations; Customer notifies SunGard of desired changes.	SunGard receives change requests from Customer and makes necessary revisions.	TBD

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
43. GeoTRAK Update Routine SIGN OFF	Customer to review and sign-off on GeoTRAK Update Routine document.	SunGard provide the GeoTRAK Update Routine document.	TBD
44. 1st Testing Review	Customer reviews data & configuration with project manager via remote sessions.	SunGard schedules remote meetings with each Department to review system configuration and Testing Checklists.	TBD
45. 1st Review of Forms/Reports	Customer reviews Forms/Reports provided at Initial Delivery and provides comments or sign-off.	SunGard receives comments or sign-off from Customer and makes adjustments as necessary.	TBD
46. Initial Delivery Revisions	Customer delivers revision list to SunGard.	SunGard receives review comments from Customer and begins adjusting configured system.	TBD
47. External Interface Review	Customer tests any external data interfaces provided by SunGard; includes land update routine, accounting interface, and other data import routines.	SunGard reviews any external data import/export routines prepared for Customer.	TBD
48. 2nd Testing Review	Customer reviews data & configuration with project manager via remote sessions.	SunGard schedules remote meetings with each Department to review system configuration and Testing Checklists.	TBD
49. 2nd Delivery ONSITE	Customer continues review of system.	SunGard delivers revisions to Customer.	TBD
50. 3rd Testing Review	Customer reviews data & configuration with project manager via remote sessions.	SunGard schedules remote meetings with each Department to review system configuration and Testing Checklists.	TBD
51. 2nd Review of Forms/Reports	Customer reviews Forms/Reports provided at 2nd Delivery and provides comments or sign-off.	SunGard receives comments or sign-off from Customer and makes adjustments as necessary.	TBD
52. 2nd Delivery Revisions	Customer delivers revision list to SunGard.	SunGard receives review comments from Customer and begins adjusting configured system.	TBD
53. 4th Testing Review	Customer reviews data & configuration with project manager via remote sessions.	SunGard schedules remote meetings with each Department to review system configuration and Testing Checklists.	TBD
54. 3rd Delivery	Customer continues review of system.	SunGard delivers revisions to Customer.	TBD
55. GeoTRAK Update Routine Delivery	Customer provides SunGard with credentials/access to configure the GeoTRAK Update Routine.	SunGard initializes the GeoTRAK Update Routine and Python scripts (in GIS if necessary).	TBD
56. GIS Final Review	Customer tests map services and updates with SunGard.	SunGard finalizes GIS configuration for Go Live.	TBD

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
57. Final Review of Forms/Reports	Customer reviews Forms/Reports provided at 3rd Delivery and provides comments or sign-off.	SunGard receives comments or sign-off from Customer and makes adjustments as necessary.	TBD
58. Final Revisions List ONSITE	Customer delivers final revision list to SunGard.	SunGard receives review comments from Customer and makes final adjustments.	TBD
59. eTRAKiT Final Connection Validated	Customer validates the configuration settings for eTRAKiT portal.	SunGard provides remote assistance for eTRAKiT payment portal.	TBD
60. 5th Testing Review	Customer reviews data & configuration with project manager via remote sessions.	SunGard schedules remote meetings with each Department to review system configuration and Testing Checklists.	TBD
61. Final Delivery	Customer reviews final items submitted.	SunGard installs modified system.	TBD
62. Go Live Dry Run	Customer delivers data in preparation for Go Live.	SunGard develops a Go Live schedule for rehearsal with Customer prior to actual Go Live.	TBD
63. Testing Ends SIGN OFF	Customer approves final system before User Training commences.		TBD
64. Customer Support Transition Preparation		SunGard PM assembles materials necessary to transition the knowledge of the implementation to the SunGard Customer Support team	TBD
65. Customer Support Transition Call	Customer attends remote discussion with SunGard Customer Support team.	SunGard introduces Customer Support team along with expectations for using technical assistance after Go Live.	TBD
66. End User Training ONSITE	Customer provides meeting space and training computers for up to eight (8) staff.	SunGard provides training materials for onsite training.	2 weeks after Testing ends.
67. General System Administration Training ONSITE	Customer core users attend a mini System Administrator training session prior to Go Live.	SunGard conducts an accelerated System Admin session with core users for user privilege and general configuration management.	TBD
68. Transition to Live	Customer provides final extract of historical data to SunGard.	SunGard converts data and loads onto Customer's server.	TBD
69. Go Live ONSITE	Customer Goes Live with TRAKiT, iTRAKiT, Teleworks IVR, Laserfiche integration, JD Edwards integration, and eTRAKiT.	SunGard provides Go Live support onsite.	TBD
70. Follow-up Visit ONSITE	Customer assembles various Departments for review with SunGard.	SunGard conducts an onsite follow-up visit 45 days after Go Live.	45 days after completion of Go Live.

Task	Customer Responsibilities	SunGard Responsibilities	Target Date
71. Go-Live REVIEW	Customer reviews that SunGard has provided and committed to all project deliverables.	SunGard provides a letter detailing all project commitments.	45 days after completion of Go Live.
System Administrator / Report Writing Training	Customer provides System Administrators for training onsite	SunGard trains Customer staff onsite	Date to be determined based on availability.

INSURANCE SUPPLEMENT

Insurance. SunGard will be covered at all times during the Order Term by such insurance as it deems adequate in its reasonable judgment, which shall in any event consist of not less than the following types and minimum amounts of coverage with a reputable insurance company(ies):

(a) commercial general liability insurance covering claims for personal injury and property damage, with limits of not less than US\$1,000,000 per occurrence;

(b) commercial crime coverage/fidelity bond insurance, with limits of not less than US\$1,000,000 per occurrence;

(c) workers compensation coverage as required by the statutes of the jurisdiction in which the services are being performed covering all Personnel employed by SunGard in the performance of their duties who are required to be covered by the statutes of the applicable jurisdiction; and

(d) errors and omissions insurance with a reputable insurance company, with limits of not less than US\$5,000,000 per occurrence and aggregate.

Upon the reasonable request of Customer, SunGard shall furnish Customer with a certificate of insurance as specified in this Agreement. Maintenance of insurance as specified in this Agreement shall in no way be interpreted as relieving or increasing SunGard's responsibilities or liabilities under this Agreement; and SunGard may carry, at its own expense, such additional insurance as it deems necessary, including self-insurance.

SST TERMS AND CONDITIONS

Version 2015

SunGard Standard Terms

These SunGard Standard Terms (“SST”) may be incorporated into one or more orders referencing these SST (each, an “Order”). Each Order, together with these SST, shall form a separate agreement (this “Agreement”), by and between the Person identified on the Order (“Customer”) and the SunGard company identified on the Order (“SunGard”), applicable to the proprietary solution identified on the Order (the “Solution”), as such Solution may be modified, revised and updated from time to time. Only the Customer and SunGard entities that execute the Order will be liable for the obligations under that Order. Each Order will be effective upon the latest date shown on the signature page of the Order (“Order Execution Date”). Future orders will be bound by the following SST unless agreed to and approved in writing as an Addendum to this Agreement.

1. Scope. Customer may use the Solution only in the ordinary course of Customer’s internal business operations for the benefit of Customer and only in accordance with the terms on the Order, the Documentation, this Agreement, including the Scope of Use. Customer shall be liable for any breach of the terms of this Agreement by any persons given access to the Solution by Customer.

2. Specified Configuration. Customer shall, at its expense, procure and maintain the computer hardware, systems software and other items required for use of, or access to, the Solution, including those described in the Order and Documentation (the “Specified Configuration”) and for updating the Specified Configuration in accordance with SunGard’s published updates. If not yet completed, Customer shall complete its procurement and installation of the Specified Configuration prior to the scheduled start of implementation. Customer shall devote all equipment, facilities, personnel and other resources reasonably necessary to begin using the Solution in production on a timely basis as contemplated by this Agreement and satisfy any Customer requirements necessary for SunGard to complete the professional services described in Section 6. SunGard is not responsible for any delays or additional fees and costs associated with Customer’s failure to timely perform its obligations under this Section 2.

3. Payments.

3.1. Fees. Customer shall pay to SunGard the fees stated in the Order, in accordance with the payment terms stated on the Order. SunGard shall invoice all other fees, as and when incurred. All invoices shall be sent to Customer’s address for invoices stated on the Order. Except as otherwise specified on the Order, Customer’s payments shall be due within thirty (30) days after the invoice date. SunGard may not increase the fees and charges payable under this Agreement, unless otherwise stated in this Agreement or in the Order. Except as provided in Section 4.2(c), all fees and other amounts paid by Customer under this Agreement are non-refundable.

3.2. Taxes. The fees and other amounts payable by Customer to SunGard under this Agreement do not include any taxes, duties, levies, fees or similar charges of any jurisdiction (“Taxes”) that may be assessed or imposed in connection with the transactions contemplated by this Agreement, excluding only taxes based upon SunGard’s net income. Customer shall directly pay any such Taxes assessed against it, and Customer shall promptly reimburse SunGard for any such Taxes payable or collectable by SunGard.

3.3. Certain Remedies for Non-payment. If Customer fails to pay to SunGard, within ten (10) days after SunGard makes written demand therefor, any past-due amount payable under this Agreement (including any applicable late payment fee) that is not a Disputed Amount, in addition to all other rights and remedies which SunGard may have, SunGard may, in its sole discretion and with further notice to Customer stating the suspension date, suspend performance of any or all of its obligations under this Agreement (other than Section 5). SunGard shall have no liability for Customer’s use of the Solution until all such past-due amounts and any applicable reinstatement fees are paid in full.

4. Warranties, Covenants and Limitations.

4.1. Compliance with Laws. SunGard shall comply with all laws, enactments, orders and regulations applicable to it as the provider of services under this Agreement. Customer shall comply with all laws, enactments, orders and regulations applicable to it as the recipient and user of services under this Agreement.

4.2. No Infringement. SunGard shall indemnify and defend Customer against, any third-party claim asserting that the Solution, as and when made available to Customer by SunGard and when properly used for the purpose and in the manner specifically authorized by this Agreement, infringes upon (i) any patent issued as of the date of this Agreement by a country that is a signatory to the Paris Convention, (ii) any copyright of any country that is a member of the Berne Convention as of the date of this Agreement, or (iii) any trade secret or other proprietary right of any Person (collectively, “IP Rights”). SunGard shall have no obligation under this Section 4.2 unless Customer promptly gives notice to SunGard within ten (10) days after the date Customer first receives notice of the applicable infringement claim (provided that later notice shall relieve SunGard of its liability and obligations under this Section 4.2 only to the extent that SunGard is prejudiced by such later notice) and allows SunGard to have sole control of the defense or settlement of the claim. Customer may monitor any such litigation or proceeding at its expense, using counsel of its choosing. The remedies provided in this Section 4.2 are the sole remedies for a claim of infringement or misappropriation hereunder. If any applicable infringement claim is initiated, or in SunGard’s sole opinion is likely to be initiated, SunGard may at its option and expense:

- (a) modify or replace all or the allegedly infringing part of the Solution so that it is no longer allegedly infringing, provided that the functionality does not change in any material adverse respect; or
- (b) procure for Customer the right to continue using the allegedly infringing part of the Solution; or
- (c) remove all or the allegedly infringing part of the Solution, and (i) if Customer has paid a one-time upfront initial license fee for the applicable Solution, refund to Customer the corresponding portion of the license fee paid by Customer to SunGard for the applicable Solution, less a reasonable rental charge equal to one- sixtieth (1/60) of the initial license fee for each month of use following the Order Execution Date, or (ii) if Customer is paying for the use of the Solution on a recurring basis, refund to Customer the corresponding portion of the unused recurring fee(s) paid by Customer to SunGard with respect to the applicable Solution, and in each such case this Agreement shall terminate with respect to the Solution or part thereof removed.

4.3. Harmful Code. Using a recent version of a reputable virus- checking product (to the extent commercially available), SunGard will check the Solution, as well as any systems used to deliver the Solution, for any viruses, worms or similar harmful code ("**Harmful Code**") and will use commercially reasonable efforts to eliminate any such Harmful Code that SunGard discovers.

4.4. Exclusion for Unauthorized Actions. SunGard is not liable under any provision of this Agreement for any performance problem, claim of infringement or other matter to the extent attributable to any unauthorized or improper use or modification of the Solution by or on behalf of Customer, any unauthorized combination of the Solution with other software or services (other than as specified in the Specified Configuration), any use of any version of the Solution other than the Supported Release, a failure to subscribe to support services if then offered for the Solution, any Third-Party Hardware or Third-Party Services, and Third-Party Software or Open Source Software (except as set forth in Sections 4.10 and 4.12), any wrongful act or omission by Customer, its Affiliates or its customers or any breach of this Agreement by Customer.

4.5. Force Majeure. Neither party shall be liable for, nor shall either party be considered in breach of this Agreement due to, any failure to perform its obligations under this Agreement (other than its payment obligations, which shall be suspended only for so long as the force majeure event renders Customer unable by any means to transmit payments when due hereunder) as a result of a cause beyond its control, including any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any law or regulation, fire, flood, earthquake, storm or other like event, theft or criminal misconduct by unrelated third parties, disruption or outage of communications (including the Internet or other networked environment), power or other utility, unavailability of supplies or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by the non-performing party with reasonable care.

4.6. Disclaimer. EXCEPT AS STATED IN SECTIONS 4, 6.5 AND 9.55, THE SOLUTION, DOCUMENTATION AND SERVICES ARE PROVIDED "AS IS," AND ALL OTHER REPRESENTATIONS, WARRANTIES, TERMS OR CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, QUALITY OF INFORMATION, QUIET ENJOYMENT OR OTHERWISE (INCLUDING IMPLIED WARRANTIES, TERMS OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INTERFERENCE, OR NON- INFRINGEMENT) ARE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCLUDED FROM THIS AGREEMENT.

4.7. Limitations Cap. EACH PARTY'S TOTAL LIABILITY UNDER THIS AGREEMENT SHALL UNDER NO CIRCUMSTANCES EXCEED THE LIABILITY CAP.

4.8. Consequential Damage Exclusion. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY (OR ANY OF ITS AFFILIATES PROVIDING OR RECEIVING THE SOLUTION, SERVICES OR OTHER SOFTWARE UNDER THIS AGREEMENT) BE LIABLE TO THE OTHER OR ANY OTHER PERSON FOR LOSSES OR DAMAGES WHICH FALL INTO ANY OF THE FOLLOWING CATEGORIES: (a) LOST REVENUES, (b) LOST PROFITS, (c) LOSS OF BUSINESS, (d) TRADING LOSSES, (e) INACCURATE DISTRIBUTIONS OR (f) ANY INCIDENTAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING ANY OF THE FOREGOING LOSSES OR DAMAGES RESULTING FROM CUSTOMER'S USE OF THE SOLUTION OR SERVICES PROVIDED HEREUNDER, OR ARISING FROM ANY BREACH OF THIS AGREEMENT OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE AND WHETHER OR NOT FORESEEABLE, EVEN IF THE RELEVANT PARTY HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. FOR PURPOSES OF CLARIFICATION, THE FOLLOWING SHALL BE DEEMED "DIRECT DAMAGES" AS BETWEEN CUSTOMER AND SUNGARD FOR THE PURPOSES OF THIS AGREEMENT (i) ANY AND ALL DAMAGES, INCLUDING CONSEQUENTIAL AND SIMILAR DAMAGES, AWARDED TO A THIRD PARTY FOR WHICH INDEMNIFICATION IS PROVIDED BY A PARTY UNDER SECTION 4.2; (ii) CUSTOMER'S OUT-OF- POCKET COSTS TO NOTIFY AFFECTED PERSONS AND/OR PAY FOR CREDIT MONITORING SERVICES FOR SUCH PERSONS FOR A ONE-YEAR PERIOD INCURRED AS A RESULT OF SUNGARD'S BREACH OF SECTION 5; AND (iii) COSTS PAID BY CUSTOMER TO REPAIR OR REMEDY DAMAGES CAUSED BY SUNGARD'S GROSS NEGLIGENCE OR INTENTIONAL ACTS.

4.9. Exceptions. THE LIMITATIONS AND EXCLUSIONS SET FORTH IN SECTIONS 4.7 AND 4.8 SHALL NOT APPLY TO: (a) BREACHES OF THE SCOPE OF USE; (b) FAILURE TO PAY FEES WHEN DUE; (c) DAMAGES CAUSED BY EITHER PARTY'S FRAUD OR WILLFUL MISCONDUCT; (d) A PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY DUE TO THAT PARTY'S NEGLIGENCE; OR (e) A PARTY'S LIABILITY FOR DAMAGES TO THE EXTENT THAT SUCH LIMITATION OR EXCLUSION IS NOT PERMITTED BY APPLICABLE LAW. THE LIMITATIONS SET FORTH IN SECTION 4.7 DO NOT APPLY TO CLAIMS FOR WHICH INDEMNIFICATION IS PROVIDED BY A PARTY UNDER SECTION 4.2.

4.10. Third-Party Software. To facilitate Customer's access and use of the Third-Party Software, the licensor(s) of such Third-Party Software have agreed to allow SunGard to provide the Third-Party Software to Customer subject to the following additional conditions: (i) the Third-Party Software shall be used only in conjunction with any permissible use of the Solution specifically authorized in this Agreement, and (ii) the Third-Party Software shall be used only in accordance with licensor's terms and conditions and documentation for the Third-Party Software which, unless otherwise included in a specific Supplement to the Order, shall be provided to Customer with the receipt of such Third-Party Software. SunGard shall use reasonable efforts to provide Customer the benefit of all indemnities and warranties granted to SunGard by the licensor(s) of the Third-Party Software, to the extent possible without additional cost to SunGard, as and if permitted by SunGard's agreement with the licensor of the Third-Party Software, and to the extent such warranties and indemnities pertain to Customer's use of the Third-Party Software hereunder. In the event of any defect in any Third-Party Software (in the form delivered by SunGard and when properly used for the purpose and in the manner specifically authorized by this Agreement), SunGard will use commercially reasonable efforts to replace or correct the Third-Party Software without charge. If SunGard complies with this provision, it shall face no further liability with respect to any defect in any Third-Party Software.

Unless as otherwise provided in a specific Supplement to the Order, or as provided in the licensor's terms and conditions, SunGard shall provide Level 1 support of the Third-Party Software. For purposes herein, Level 1 Support shall mean:

- 1) Taking the first support call from Customer and qualifying the call priority, or if an existing case, obtaining case information;
- 2) Gathering information about the case, defining and describing the problem, and determining if the Third Party Software is the cause of the problem. Analyze problem symptoms, attempt to find root cause if appropriate and document result of such attempts. Determining if the problem is a known Third-Party Software problem by accessing third party online support resources; and
- 3) If it is determined to be a Third-Party Software problem, contacting the Third-Party Software technical support. For new cases, opening a case and selecting a priority. For existing cases, providing the case number and information gathered to the Third-Party Software support engineer.
- 4) Providing Customer with periodic updates until cases are resolved.

4.11. Third-Party Hardware and Third-Party Services. Customer is hereby advised that the third party, and not SunGard, assumes all responsibility for and liability in connection with the Third-Party Hardware and Third-Party Services, and is solely responsible for delivering the Third-Party Hardware and Third-Party Services to Customer. SunGard Public Sector is not authorized to make any representations or warranties that are binding upon the third party or to engage in any other acts that are binding upon the third party, excepting specifically that SunGard is authorized to represent the fees for the Third-Party Hardware or Third-Party Services as the same is provided for in the Order and to accept payment of such amounts from Customer on behalf of the third party.

4.12. Open Source Software Components. The Solution may be provided with or included Open Source Software, including that Open Source Software identified in the Documentation or on the support services website for the Solution. The Open Source Software is licensed under the terms of the open source license that accompanies or is made available with such Open Source Software, including via a website designated by SunGard. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable license for such Open Source Software. Open Source Software shall not be deemed to be part of the Solution under this Agreement and SunGard shall have no liability relating to such Open Source Software; provided, however, that SunGard shall be responsible for fixing Errors caused by the Open Source Software to the same extent as SunGard's ongoing support obligations as set forth in Section 8.5 and 9.33 of this Agreement.

4.13. Open Negotiation. Customer and SunGard have freely and openly negotiated this Agreement, including the pricing, with the knowledge that the liability of the parties is to be limited in accordance with the provisions of this Agreement.

4.14. Title and Risk of Loss. In no event will SunGard be deemed to have taken title or any similar right or interest in or of any Third-Party Software or Third-Party Hardware in the chain of distribution to Customer, and title, risk of loss, and/or such similar right or interest in or to the Third-Party Software or Third-Party Hardware will be deemed to vest in Customer either at the point of delivery to carrier for shipment or as otherwise provided for in the licensor's terms and conditions.

4.15. Disclaimer. Except as may be provided in Section 4.10 above, Customer agrees and understands that **SUNGARD MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE THIRD-PARTY PRODUCTS. ALL WARRANTIES (IF ANY) ARE PROVIDED TO CUSTOMER BY THE LICENSORS, MANUFACTURERS OR PROVIDERS OF SUCH THIRD-PARTY PRODUCTS. SUNGARD PUBLIC SECTOR EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR ITS OBLIGATION TO REMIT PAYMENT RECEIVED FROM CUSTOMER TO THE THIRD PARTY PURSUANT TO THIS AGREEMENT, SUNGARD WILL HAVE NO LIABILITY WHATSOEVER IN CONNECTION WITH THE THIRD-PARTY PRODUCTS.**

4.16 Other Limitations. The warranties made by SunGard in this Agreement, and the obligations of SunGard under this Agreement, run only to Customer and not to its Affiliates, its customers or any other Persons. Under no circumstances shall any Affiliate or customer of Customer or any other Person be considered a third-party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement (including any right to be consulted in connection with any variation or rescission of the Agreement agreed between SunGard and Customer), even if such Affiliates, customers or other Persons are provided access to the Solution or data maintained in the Solution via the

Internet or other networked environment. Except to the extent specified in an Order, SunGard shall not be deemed Customer's official record keeper for regulatory or other purposes and shall have no obligation to retain any records or data on Customer's behalf after termination or expiration of this Agreement.

5. Confidentiality, Security, Ownership and Use Restrictions.

5.1. Confidentiality. The party receiving Confidential Information ("**Receiving Party**") of the other ("**Disclosing Party**") shall not, and shall cause its Authorized Recipients not to, use Confidential Information for any purpose except as necessary to implement, perform or enforce this Agreement. Receiving Party will use the same reasonable efforts to: (a) protect the Confidential Information of Disclosing Party as it uses to protect its own proprietary information and data. Prior to disclosing the Confidential Information to its Authorized Recipients, Receiving Party shall inform them of the confidential nature of the Confidential Information and require them to abide by the terms of this Agreement. Receiving Party will promptly notify Disclosing Party if Receiving Party discovers any improper use or disclosure of Confidential Information and will promptly commence all reasonable efforts to investigate and correct the causes of such improper use or disclosure. If Receiving Party believes the Confidential Information must be disclosed under applicable law, Receiving Party may do so provided that, to the extent permitted by law, the other party is given a reasonable opportunity to contest such disclosure or obtain a protective order.

5.2. Security, Data Ownership and Disclosure Notification.

(a) SunGard will implement commercially reasonable, and no less rigorous than used to protect SunGard data, administrative, technical and physical safeguards designed to: (i) ensure the security and confidentiality of Customer Data; (ii) protect against any anticipated threats or hazards to the security or integrity of Customer Data; and (iii) protect against unauthorized access to or use of Customer Data. SunGard will review and test such safeguards on no less than an annual basis.

(b) If Customer makes the Solution or data maintained by the Solution accessible through the Internet or other networked environment, Customer shall be solely responsible for all aspects of Internet use, and shall maintain, in connection with the operation or use of the Solution, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.

(c) To the extent that Third-Party Users are permitted to have access to the Solution, Customer shall maintain agreements with such Third Party Users that adequately protect the confidentiality and intellectual property rights of SunGard in the Solution and Documentation, and disclaim any liability or responsibility of SunGard with respect to such Third Party Users.

(d) SunGard will use Customer Data only for the purpose of fulfilling its duties under this Agreement and for Customer, and will not share Data with or disclose it to any Third Party without the prior written consent of Customer or as otherwise required by law. By way of illustration and not of limitation, SunGard will not use such Data for SunGard's own benefit and, in particular, will not engage in "data mining" of Customer Data, whether through automated or human means, except as specifically and expressly required by law or authorized in writing by Customer.

(e) If in the course of fulfilling its duties under this Agreement, SunGard exposes Customer Data to any unauthorized third party (a "Data Disclosure"), SunGard shall provide notification to Customer within 48 hours after SunGard reasonably believes there has been such disclosure. Notwithstanding any other provision of this Agreement, and in addition to any other remedies available to Customer under law or equity, SunGard will promptly reimburse Customer in full for all costs incurred by Customer in any investigation, remediation or litigation resulting from any such Data Disclosure, including but not limited to providing notification to Third Parties whose Data were compromised and to regulatory bodies, law-enforcement agencies or other entities as required by law or contract; establishing and monitoring call center(s), and credit monitoring and/or identity restoration services to assist each person impacted by a Data Disclosure in such a fashion that, in Customer's sole discretion, could lead to identity theft; and the payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed by regulatory agencies, courts of law, or contracting partners as a result of the Data Disclosure.

5.3. Personal Data.

If SunGard processes or otherwise has access to any personal data or personal information on Customer's behalf when performing SunGard's obligations under this Agreement, then: (i) Customer shall be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and SunGard shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own); (ii) Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to SunGard so that SunGard may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include SunGard processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for SunGard to provide the Solution and perform its other obligations under this Agreement; and (iii) SunGard shall process the personal data and personal information only in accordance with any lawful and reasonable instructions given by Customer from time to time as set out in and in accordance with the terms of this Agreement; and (iv) each party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such

unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the parties will cooperate to document these measures taken.

5.4. SG Solution Details. The SG Solution Details are trade secrets and proprietary property of SunGard or its licensors, having great commercial value to SunGard or its licensors. Title to all SG Solution Details and all related intellectual property and other ownership rights shall be and remain exclusively with SunGard or its licensors, even with respect to such items that were created by SunGard specifically for or on behalf of Customer. SunGard and its Affiliates may freely use Feedback without attribution or the need for SunGard, its Affiliates or any third party to pay Customer or any third party any royalties or other fees of any kind. This Agreement is not an agreement of sale, and no intellectual property or other ownership rights to any SG Solution Details are transferred to Customer by virtue of this Agreement. All copies of SG Solution Details in Customer's possession shall be deemed to be on loan to Customer during the term of this Agreement.

5.5. Use Restrictions. Except to the extent specifically authorized by this Agreement, Customer shall not, shall not attempt to, and shall not permit any other Person under its reasonable control to: (a) use any SG Solution Detail for any purpose, at any location or in any manner not specifically authorized by this Agreement; (b) make or retain any Copy of any SG Solution Detail; (c) create or recreate the source code for the Solution, or re-engineer, reverse engineer, decompile or disassemble the Solution except to the extent specifically permitted by applicable law; (d) modify, adapt, translate or create derivative works based upon the Solution or Documentation, or combine or merge any part of the Solution or Documentation with or into any other software or documentation except to the extent specifically permitted by applicable law; (e) refer to, disclose or otherwise use any SG Solution Detail as part of any effort either (i) to develop a program having any functional attributes, visual expressions or other features similar to those of the Solution or (ii) to compete with SunGard; (f) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in any SG Solution Detail, or fail to preserve all copyright and other proprietary notices in any Copy of any SG Solution Detail made by Customer; (g) sell, market, license, sublicense, distribute or otherwise grant to any Person, including any outsourcer, vendor, sub-contractor, consultant or partner, any right to use any SG Solution Detail or allow such other Person to use or have access to any SG Solution Detail, whether on Customer's behalf or otherwise; or (h) use the Solution to conduct any type of application service provider, service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any Person, whether on a fee basis or otherwise.

5.6. Notice and Remedy of Breaches. Each party shall promptly give notice to the other of any actual or suspected breach by it of any of the provisions of this Section 5, whether or not intentional, and the breaching party shall, at its expense, take all steps reasonably requested by the other party to prevent or remedy the breach.

5.7. Enforcement. Each party acknowledges that any breach of any of the provisions of this Section 5 may result in irreparable injury to the other for which money damages would not adequately compensate. If there is a breach, then the injured party shall be entitled, in addition to all other rights and remedies which it may have, to have a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all Persons involved from continuing the breach.

6. Professional Services.

6.1. Professional Services. An Order may identify certain Professional Services.

6.2. Professional Services Fees. Customer shall pay to SunGard the professional services fees stated on the Order. An Order will be generated for any project involving professional services.

6.3. Expense Reimbursements. Customer shall reimburse SunGard for reasonable travel, living and other out-of-pocket expenses incurred by SunGard personnel in connection with all services, including, but not limited to, Professional Services and maintenance and support rendered by SunGard, as detailed in each Order. Reimbursable expenses shall be incurred by SunGard personnel in accordance with SunGard's then current per diem travel expense guidelines, a copy of which will be included in the Order. SunGard shall invoice Customer for reimbursement of these expenses on a monthly basis, as incurred.

6.4. Cooperation and Access to Facilities, Data and Employees. To the extent reasonably necessary for SunGard to perform its obligations under this Agreement, Customer shall provide to SunGard access to Customer's location site, equipment, data and employees, and shall otherwise cooperate with SunGard in its performance hereunder, all as reasonably necessary for SunGard to perform its obligations under this Agreement.

6.5. Professional Services Warranty. SunGard warrants to Customer that Professional Services will be performed in a good and workmanlike manner by qualified personnel, subject to Section 6.4, and consistent with the standard of care normally exercised by nationally recognized professional organizations engaged in performing comparable services. SunGard shall have no liability under this Section 6.5 unless, within one hundred twenty (120) days after the actual date of the particular Professional Services, SunGard receives notice from Customer describing the breach of this warranty, together with adequate supporting documentation and data. Upon receipt of any such notice, SunGard's obligation under this Section 6.5 is to properly re-perform the particular Professional Services as soon as reasonably practical at no additional charge, and in the event that such re-performance fails to bring the Professional Services into compliance with this warranty, Customer may seek actual damages pursuant to the Liability Cap.

6.6. Compliance with Customer Policies. While SunGard personnel are performing services at Customer's site, SunGard will ensure that such personnel comply with Customer's reasonable security procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to SunGard in writing and in advance. Customer shall promptly reimburse SunGard for any out-of-pocket costs incurred in complying with such procedures and policies.

6.7. Contributed Material. In the process of SunGard's performing Professional Services, Customer may, from time to time, provide SunGard with designs, plans, or specifications, improvements, works or other material for inclusion in, or making modifications to, the Solution, the Documentation or any other deliverables ("**Contributed Material**"). Customer grants to SunGard a nonexclusive, irrevocable, perpetual, transferable right, without the payment of any royalties or other compensation of any kind and without the right of attribution, for SunGard, SunGard's Affiliates and SunGard's licensees to make, use, sell and create derivative works of the Contributed Material.

7. Term and Termination.

7.1. Order Term. Unless otherwise indicated in the Order Form, the Solution hereunder shall be perpetually licensed. With regards to support services, the Order may state an initial term for the use of the Solution ("**Initial Term**") and may state renewal terms (each a "**Renewal Term**"). "**Order Term**" means the Initial Term together with any Renewal Terms.

7.2. Termination. Either party may terminate this Agreement by giving notice of termination to the other party if the other party breaches any of its material obligations (other than Customer's failure to pay Support Fees during a Renewal Support Term) under this Agreement and does not cure the breach within thirty (30) days after receiving notice describing the breach in reasonable detail.

7.3. Effect of Termination. The provisions of Sections 3, 4, 5, 7.3 and 10 shall survive any termination of this Agreement, whether under this Section 7 or otherwise. If the Agreement is terminated for any reason, Customer shall be liable for all payments due to SunGard for the period ending on the date of termination. Upon a termination of this Agreement, whether under this Section 7 or otherwise, Customer shall: (i) discontinue all use of the affected Solution and Documentation, (ii) promptly return to SunGard all copies of the affected Solution and Documentation and any other affected SG Solution Details then in Customer's possession; and (iii) give notice to SunGard certifying that all copies of such items have been permanently deleted.

8. Terms Applicable To SaaS, ASP and Hosting. The following provisions in this Section 8 apply solely to Hosting Services and to Orders for and ASP Solution or SaaS Solution.

8.1. SaaS, ASP and Hosting. SunGard shall provide the Hosting Services and/or access to the ASP Solution or SaaS solution, as described and for the term specified on the Order.

8.2. Passwords and Solution Access. If SunGard provides Customer or its Authorized Users with unique access codes to access the Solution (each, a "**Password**"), Customer shall hold any such Passwords in strict confidence and shall not assign, share, misuse or abuse the Passwords or attempt to render ineffective the password protection of the Solution. If Customer suspects or learns that a Password is being used to gain unauthorized access to the Solution, Customer will immediately notify SunGard so that it can change, or assist Customer in changing, the applicable Password. To the extent the Solution is within SunGard's network, SunGard may suspend access to the Solution without advance notice if SunGard reasonably believes the Solution is being used or accessed in an unauthorized, illegal or disruptive manner, provided that SunGard will promptly notify Customer of any such event.

8.3. Customer Data.

(a) Customer shall supply, or cause to be supplied, all Customer Supplied Data. Customer shall transmit the Customer Supplied Data to SunGard by communications link or in another manner described on the Order. As between SunGard and Customer, Customer shall be responsible for ensuring that the Customer Supplied Data is Accurate and complete. Customer represents and warrant to SunGard that Customer has the full legal right for Customer and SunGard, its affiliates and agents to use the Customer Supplied Data for processing hereunder.

(b) Within thirty (30) days after termination of Hosting Services or of an Order for an ASP Solution or SaaS Solution, Customer shall give SunGard an instruction notice regarding the disposition of any tapes, data, files and other property belonging to Customer and then in SunGard's possession. To the extent practicable and at Customer's expense after receipt of such notice, SunGard shall use commercially reasonable efforts to comply with the notice, including converting the data on the Solution to machine-readable form. SunGard may retain such property until SunGard receives all payments due to SunGard under that Order. If Customer fails to give that notice within thirty (30) days after such termination, then SunGard may dispose of such property in a commercially reasonable manner.

(c) In order to improve SunGard's product and service offerings for its customers, SunGard may maintain a database of information residing on the Solution. SunGard and its affiliates may use and distribute such data in an aggregated and de-identified format, including as a part of the development, distribution and licensing of any SunGard product or service offering.

8.4. Regulatory Access. To the extent permitted by law, each party will notify the other promptly of any formal request by an authorized governmental agency or regulator to examine Customer Data or other records, if any, regarding Customer that are maintained in SunGard facilities under this Agreement. Customer will reimburse SunGard for the reasonable out-of-pocket costs SunGard incurs, and for time spent, in making such Customer Data or other records, if any, available for examination and audit by the governmental agency or regulatory authority that has jurisdiction over Customer's business.

8.5. Support. SunGard shall provide to Customer the ongoing support services as described in the Order.

8.6. Data Backup and Disaster Recovery. If the Solution maintains a database then, unless otherwise stated on the Order:

(a) SunGard shall provide an electronic backup of the Customer Data accordance with the backup cycle defined in the Order (and if no backup cycle is defined, at reasonable intervals); and

(b) SunGard shall maintain a disaster recovery plan which includes a procedure for the restoration of Customer's production environment at an alternate facility in the event of a disaster. SunGard's disaster recovery plan shall be tested at least once each calendar year.

8.7. Interruption to Solution. From time to time, SunGard shall be entitled (at its discretion, without incurring liability for so doing) to interrupt the Solution to: (i) perform repairs and other maintenance and install enhancements on SunGard's equipment, software and/or other systems that are required for the provision of the Solution, or (ii) make adjustments to its infrastructure (including, for example, in relation to resources shared by its other customers) and thereby cause a disruption in the provision of the Solution. Except in the case of emergency repairs, maintenance or adjustments, SunGard will (a) give Customer reasonable prior notice of the interruption; (b) limit such interruptions to outside of SunGard's normal business hours; and (c) use commercially reasonable efforts to minimize the impact of the interruption.

8.8. Harmful Code. Using a recent version of a reputable virus- checking product (to the extent commercially available), Customer will check the Specified Configuration for Harmful Code and ensure no Harmful Code is introduced by its end users or from its systems into any systems used in the Solution and will use commercially reasonable efforts to eliminate any such Harmful Code that either Customer or SunGard discovers.

8.9. Volume Increases. Customer shall give notice to SunGard whenever Customer intends to materially increase the volume of data to be processed on the Solution. Any such increase that results in an increase beyond the Scope of Use requires an additional executed Order and the payment of additional fees.

9. Terms Applicable to Software Licenses. The following provisions in this Section 9 apply solely to an Order that provides the right for Customer to install the Solution at the facility identified on the Order.

9.1. Grant. Except as otherwise provided in an Order, SunGard grants to Customer a non-transferable, non-exclusive, term license to use the Solution in accordance with this Agreement and the Scope of Use. The Solution shall be installed in object code form only at Customer's location(s) listed on the Order ("**Designated Location(s)**"). Customer may, subject to Section 10.4, use or access the Solution at or from Customer locations worldwide. Customer may change a Designated Location by giving prompt notice thereof to SunGard. Customer may copy and use the Solution installed at the Designated Location for inactive back-up and disaster recovery purposes. Customer may copy the Documentation to the extent reasonably necessary for use of the Solution under this Agreement.

9.2. Initial Installation. SunGard shall deliver to Customer the initial Copies of the Solution stated on the Order by supplying such initial Copies (a) by physical shipment, such as on a disc or other media, or (b) by electronic delivery, such as by posting it on SunGard's network for downloading. Physical shipment is on F.O.B. terms, SunGard's shipping point and electronic delivery is deemed effective at the time SunGard provides Customer with access to download the Solution. The date of such delivery shall be referred to as the "**Delivery Date.**"

9.3. Support. Beginning on the Order Execution Date and continuing for the duration of the initial support term set forth on the Order ("**Initial Support Term**"), SunGard shall provide the ongoing support services described in that Order; and Customer shall pay to SunGard support fees stated on such Order ("**Support Fees**"). Upon expiration of the Initial Support Term, the ongoing support services shall automatically renew and Customer shall be obligated to pay the Support Fees for additional annual support periods (each a "**Renewal Support Term**"), until the earlier of:

(a) Customer giving SunGard notice of its intent to terminate ongoing support services (in accordance with Section 10.1) at least sixty (60) days before the end of the Initial Support Term or Renewal Support Term; or

b) SunGard giving a notice of its intent to discontinue support services for all customers using the solution and its intent to terminate ongoing support services (in accordance with Section 10.1) at least sixty (60) days before the end of the Initial Support Term or Renewal Support Term, as applicable, provided that SunGard shall not provide such notice of support termination if such termination would be effective prior to whichever is the later of (i) the fifth (5th) anniversary of the Order Execution Date; or (ii) the date which falls at the end of the period equal to two (2) times the Initial Support Term; or

(c) Termination of this Agreement.

On an annual basis, SunGard may increase the Support Fees payable, in accordance with the provisions contained within the original License Order section 4, Software Notes 3.

9.4. Support Termination. Upon the effective date of termination of ongoing support services by either party or at any time when Customer has failed to pay Support Fees ("**Support Termination Date**"): (i) SunGard shall discontinue providing all ongoing support services, including SunGard's obligations under Section 9.33; (ii) any SunGard warranties under this Agreement shall cease to apply for the period after the Support Termination Date; and (iii) SunGard shall not be liable for Customer's use of the Solution after the Support Termination Date except for SunGard's indemnification obligations for any third-party claims covered by Section 4.2 that arose prior to the Support Termination Date (but only to the extent such claim would not have been remedied by a Release made available by SunGard after the Support Termination Date).

9.5. Software Warranty. SunGard warrants to Customer that for a period of twelve (12) months from the Delivery Date, the Solution (as delivered to Customer by SunGard and when properly used for the purpose and in the manner specifically authorized by this Agreement), will perform as described in the Documentation in all material respects. SunGard's sole obligation and liability under this warranty is to comply with the provisions of Section 9.3 of this Agreement.

9.6. Remote Access of Installed Software. Provided that SunGard performs such services in accordance with the confidentiality provisions of this Agreement, Customer shall permit SunGard, at SunGard's option, to remotely access the Solution installed at the Designated Location for the purpose of providing support services to Customer under Section 9.3 and otherwise implementing the purposes of this Agreement. In remotely accessing such Solution, SunGard will comply with Customer's reasonable security procedures and company policies that have been provided to SunGard in writing. Customer shall promptly reimburse SunGard for any out-of-pocket costs incurred in complying with such procedures and policies.

9.7. Backup. Customer acknowledges that it is the best judge of the value and importance of the data held on Customer's systems and that Customer shall be solely responsible for maintaining secure and complete back-up copies of all data that Customer processes using the Solution, which data will be backed-up on not less than a daily basis and which will be readily available on machines controlled by Customer to facilitate the prompt restoration of such data in the event of any loss of or damage to it. SunGard shall have no liability for any loss or damage caused by Customer's failure to maintain such backed-up copies.

9.8. Audit. At SunGard's expense and upon written request with thirty (30) days' notice, Customer will permit SunGard, its personnel or its outside auditors to enter the relevant Customer locations during normal business hours and audit the number of copies of the Solution and Documentation in Customer's possession and information pertaining to Customer's compliance with this Agreement. Such audits shall not occur more than once in any twelve (12) month period (unless SunGard believes, in good faith, that there has been a breach of this Agreement by Customer) and shall be performed in a manner not to disrupt Customer's business and operations and will respect the confidentiality of Customer, its suppliers and customers. Customer will, in a timely manner, reasonably cooperate with the auditors and provide the auditors all assistance as they may reasonably request in connection with the audit. Customer may require auditors acting on behalf of SunGard to execute reasonable confidentiality agreements and comply with Customer's reasonable security requirements, but t requirement will not apply to SunGard's internal auditors otherwise bound by the confidentiality conditions of this Agreement.

10. Other Provisions.

10.1. Notices. All notices, consents and other communications under or regarding this Agreement shall be in writing and shall be deemed to have been received on the earlier of: (a) the date of actual receipt; (b) the third business day after being mailed by first class, certified or air mail or (c) the first business day after being sent by a reputable overnight delivery service. Any notice may be given by facsimile, or email if notice by one of the foregoing is provided promptly thereafter. Customer's address for notices is stated on the Order. SunGard's address for notices is stated on the Order. In the case of (i) any notice by Customer alleging a breach of this Agreement by SunGard or (ii) a termination of this Agreement, Customer shall also mail a written notice to SunGard Data Systems Inc., 680 East Swedesford Road, Wayne, Pennsylvania 19087, Attention: General Counsel and such notices shall identify the name date, specific parties and SunGard Order Number. Either party may change its address for notices by giving written notice of the new address to the other party.

10.2. Defined Terms. As used in this Agreement, the terms below (and their plural forms) have the following meanings:

(a) "**affiliate**" whether capitalized or not, means, with respect to a specified Person, any Person which directly or indirectly controls, is controlled by, or is under common control with the specified Person as of the date of this Agreement, for as long as such relationship remains in effect.

(b) "**Authorized Recipient**" means: (i) with respect to Customer, Customer, any Authorized User and any employee of a Customer contractor, provided that the contractor is not a competitor of SunGard; and (ii) with respect to SunGard, SunGard, its foreign and domestic Affiliates and their respective contractors.

(c) "**Authorized User**" means a Customer employee.

(d) "**Confidential Information**" means all business or technical information disclosed by Disclosing Party to Receiving Party in connection with this Agreement. Confidential Information includes without limitation: (i) Customer Data and the details of Customer's computer operations; and (ii) the SG Solution Details. Confidential Information does not include information that: (aa) prior to the receipt thereof under this Agreement, had

been developed independently by Receiving Party, or was lawfully known to Receiving Party, or had been lawfully received by Receiving Party from other sources, provided such other source did not receive it due to a breach of an agreement with Disclosing Party, and Receiving Party knew of such breach or ought to have reasonably known of such breach; (bb) is publicly known at or after the time either party first learns of such information, or generic information or knowledge which either party would have learned in the course of its work in the trade, business or industry; or (cc) subsequent to the receipt thereof under this Agreement; (1) is published by Disclosing Party or is disclosed generally by Disclosing Party to others without restriction on its use and disclosure; or (2) has been lawfully obtained by Receiving Party from other sources which Receiving Party reasonably believes lawfully came to possess it.

(e) **"copy"** whether capitalized or not, means any paper, disk, tape, film, memory device or other material or object on or in which any words, object code, source code or other symbols are written, recorded or encoded, whether permanent or transitory.

(f) **"Customer Data"** means data stored in, or processed by, the Solution; provided that aggregated data that is not personally identifiable data and not identifiable to Customer shall not be deemed Customer Data nor Customer's Confidential Information.

(g) **"Customer Supplied Data"** means any information or data introduced into the Solution by or on behalf of Customer.

(h) **"Disputed Amount"** means a good faith dispute by Customer of certain amounts invoiced under this Agreement. An amount will only constitute a Disputed Amount if (i) Customer has given notice of the dispute to SunGard promptly after receiving the invoice and (ii) the notice explains Customer's position in reasonable detail. A disputed will not exist as to an invoice in its entirety merely because certain amounts on the invoice are Disputed Amounts.

(i) **"Documentation"** means the standard user documentation SunGard provides for the Solution, as such Documentation may be updated from time to time.

(j) **"Error"** means a failure of a Supported Release to perform in all material respects in accordance with the Documentation.

(k) **"Export Laws"** means any laws, administrative regulations and executive orders of the U.S., the United Kingdom and any other jurisdiction where any SG Solution Details will be located or from where any SG Solution Details will be accessed under this Agreement relating to the control of imports and exports of commodities and technical data, use or remote use of software and related property or services, embargo of goods or services or registration of this Agreement including the Export Administration Regulations of the U.S. Department of Commerce and the regulations and executive orders administered by the Office of Foreign Asset Control of the U.S. Department of the Treasury.

(l) **"Feedback"** means any suggestions or recommendations for improvements or modifications to the Solution made by or on behalf of Customer.

(m) **"including"** whether capitalized or not, means including but not limited to.

(n) **"Liability Cap"** means the total amount paid by Customer for license fees, support fees, and professional services plus any direct damages caused in whole or in part by SunGard's gross negligence or intentional acts, but only to the extent of SunGard's pro-rata liability, as agreed upon by the Parties or as may be ordered by a court.

(o) **"Open Source Software"** means computer software made generally available at no charge by the copyright holder under a license which provides the right to modify and distribute the software to anyone for any purpose at no charge.

(p) **"person"** whether capitalized or not, means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, governmental agency, regulatory authority or other entity of any nature.

(q) **"Professional Services"** means installation, implementation, training or consulting services including custom modification programming, support services relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by SunGard under this Agreement.

(r) **"Release"** means a modification or update to the Solution, which SunGard, in its sole discretion, incorporates into the Solution without requiring its then existing client base to pay a separate fee (other than support fees).

(s) **"Scope of Use"** means the Designated Computer(s), Designated Location(s), License Term, Platform, Business Purpose, Number of Trades, Number of Work Stations, Number of Developers, Number of Users, Volume Limit, Number of Production Databases, Number of Production Servers, and/or other restrictions or parameters as are stated in Section 5.5 or on the Order. Scope of Use shall not include the processing of any Acquired Business. Customer shall use the Solution in production to process Customer's business; provided that all increases in the Scope of Use require the execution of an amendment amending the Scope of Use.

(t) **"SG Solution Details"** means any of the following: the Solution and Documentation, the object code and the source code for the Solution, the visual expressions, screen formats, report formats and other design features of the Solution, all ideas, methods, algorithms, formulae and concepts used in developing and/or incorporated into the Solution or Documentation, all future modifications, updates, Releases, improvements and

enhancements of the Solution or Documentation, all derivative works (as such term is used in the U.S. copyright laws) based upon any of the foregoing and all copies of the foregoing.

(u) **“Supported Release”** means, unless otherwise stated in the Order, the latest Release of the Solution that is generally available to SunGard's client base.

(v) **“Third-Party Product”** means Third-Party Software, Third Party Hardware, Third-Party Data or Third-Party Services.

(w) **“Third-Party Hardware”** means that hardware specified as third party hardware on the Order.

(x) **“Third-Party Services”** means those services specified as third party services on the Order.

(y) **“Third-Party Software”** means the software specified as third- party software on the Order.

(z) **“Third-Party User”** means any of Customer's customers, or their customers, to the extent such persons are provided access to the Solution or Third-Party Data hereunder.

10.3. Parties in Interest.

(a) This Agreement shall bind, benefit and be enforceable by and against SunGard and Customer and, their respective permitted successors and assigns.

(b) Customer shall not assign this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, without SunGard's prior written consent, except such consent shall not be required in the case of an assignment of this Agreement (but not of any individual rights or obligations hereunder) to (i) a purchaser of or successor to substantially all of Customer's business (unless such purchaser or successor is a software, data processing or computer services vendor that is a competitor of SunGard, its parent company or any of its Affiliates) or (ii) an Affiliate of Customer, provided in the case of such an assignment, Customer guarantees the obligations of the assignee and the use of the Solution is not broadened beyond the Scope of Use. Any assignment by Customer in breach of this Section shall be void. Any express assignment of this Agreement, any change in control of Customer (or its Affiliate in the case of an assignment to that Affiliate under this Section 10.3(b) and any assignment by merger or otherwise by operation of law, shall constitute an assignment of this Agreement by Customer for purposes of this Section 0 (**“Customer Assignment”**). In the event of a Customer Assignment, or any acquisition of additional business by Customer, whether by asset acquisition, merger or otherwise by operation of law (collectively with the Customer Assignment, **“Customer Additional Business Acquisition”**), Customer shall give notice to SunGard notifying SunGard if Customer desires to use the Solution to process any additional business related to such Customer Additional Business Acquisition (**“Acquired Business”**).

10.4. Export Laws. Customer acknowledges that the SG Solution

Details and the services provided by SunGard hereunder and this Agreement are subject to the Export Laws. Customer shall not violate the Export Laws or otherwise export, re-export or use, directly or indirectly (including via remote access), any part of the Solution, Confidential Information or services in a manner, or to or for any person or entity, for which a license or other authorization is required under the Export Laws without first obtaining such license or authorization.

10.5. Relationship. The relationship between the parties created by this Agreement is that of independent contractors and not partners, joint venturers or agents.

10.6. Entire Understanding. This Agreement, which includes and incorporates the Order, and any other schedules, exhibits and addenda hereto states the entire understanding between the parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations, representations (whether negligently or innocently made), agreements and other written or oral communications between the parties with respect to the subject matter of this Agreement. In the event of a conflict between the provisions of the SST and an Order incorporating the SST, the terms of such Order shall prevail. Any written, printed or other materials which SunGard provides to Customer that are not included in the Documentation are provided on an “as is” basis, without warranty, and solely as an accommodation to Customer. In entering into this Agreement each party acknowledges and agrees that it has not relied on any express or implied representation, warranty, collateral contract or other assurance (whether negligently or innocently made), except those expressly set out in this Agreement. Each party waives all rights and remedies which, but for this Section 10.6, might otherwise be available to it in respect of any such representation (whether negligently or innocently made), warranty, collateral contract or other assurance. Nothing in this Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

10.7. Modification and Waiver. No modification of this Agreement, and no waiver of any breach of this Agreement, shall be effective unless in writing and signed by an authorized representative of the party against whom enforcement is sought. This Agreement may not be modified or amended by electronic means without written agreement of the parties with respect to formats and protocols. No waiver of any breach of this Agreement, and no course of dealing between the parties, shall be construed as a waiver of any subsequent breach of this Agreement.

10.8. Severability, Heading and Counterparts. A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement. Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10.9. Personnel. Customer acknowledges that: (a) SunGard expends substantial time and money, on an ongoing basis, to recruit and train its programmers, trainers, data processing, customer support and professional services team personnel ("**SunGard Personnel**"); (b) SunGard's business is highly competitive, is marketed throughout the United States, Europe and in many other locations worldwide, and requires long sales lead times often exceeding one (1) year; and (c) if Customer were to hire SunGard Personnel, then SunGard may suffer lost sales opportunities and would incur substantial time and money in hiring and training replacement(s) for those SunGard Personnel. Accordingly, if Customer, directly or through one or more subsidiaries or other controlled entities, hires any SunGard Personnel at any time when such SunGard Personnel is employed or engaged by SunGard or during the six (6) months after such employment or engagement ends, then Customer shall pay to SunGard as liquidated damages (and not a penalty) an amount equal to twelve (12) months of such SunGard Personnel's salary and other compensation (including bonus or commission payments) at the time of leaving his/her employment or engagement with SunGard. For purposes of this provision, "**hire**" means to employ as an employee or to engage as an independent contractor, whether on a full-time, part-time or temporary basis. This provision will remain in effect during the term of this Agreement and for a period of one (1) year after expiration or termination of this Agreement.

10.10. Jurisdiction and Governing Law. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement or its subject matter. If Customer is, as of the Order Execution Date, headquartered inside the Americas, then only Section 10.10(a) below applies. If Customer is, as of the Order Execution Date, headquartered in the European Economic Area, Croatia and Switzerland then only Section 10.10(b) below applies. If Customer is, as of the Order Execution Date, headquartered outside of the Americas or the European Economic Area, Croatia and Switzerland then only Section 10.10(c) below applies.

(a) This Agreement and any dispute or claim arising, directly or indirectly, out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed and enforced in accordance with, the laws of the State of Colorado excluding choice of law. Each party irrevocably (i) agrees that a County or Circuit Court in Colorado, shall have exclusive jurisdiction to settle any dispute, controversy or claim arising, directly or indirectly, out of or in connection with this Agreement, or the breach, termination or validity thereof (including non-contractual disputes or claims) and that such court shall be the proper venue therefor; (ii) waives the right to trial by jury, (iii) consents to service of process by first class certified mail, return receipt requested, postage prepaid, to the address at which the party is to receive notice and (iv) agrees that the prevailing party shall be entitled to recover its reasonable attorney's fees (including, if applicable, charges for in-house counsel), court costs and other legal expenses from the other party.

(b) This Agreement and any dispute or claim arising, directly or indirectly, out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed and enforced in accordance with, the laws of England and Wales excluding choice of law. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute, controversy or claim arising, directly or indirectly, out of or in connection with this Agreement, or the breach, termination or validity thereof (including non-contractual disputes or claims).

(c) This Agreement and any disputes or claim arising, directly or indirectly, out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed and enforced in accordance with, the laws of England and Wales excluding choice of law. Each party irrevocably agrees that the any dispute, controversy or claim arising, directly or indirectly, out of or in connection with this Agreement, or the breach, termination, or validity thereof (including non-contractual disputes or claims), shall be referred to and finally resolved by the International Court of Arbitration of the International Chamber of Commerce under the Rules of Arbitration of the International Chamber of Commerce ("**ICC**") for the time being in force, which rules are deemed to be incorporated by reference in this Section. The location and seat of the arbitration shall be (i) London if Customer is headquartered in Europe, Middle East or Africa and (ii) Singapore if Customer is headquartered in Asia Pacific. There shall be one arbitrator. The arbitrator shall be agreed between the parties. Failing agreement, or if the arbitrator selected is unable or is unwilling to act, the appointing authority shall be ICC. The arbitration proceedings shall be conducted in English. The decision of the arbitrator shall be final and binding upon both parties and shall be enforceable in any court of law. Each of the parties waives irrevocably their right to any form of appeal, review or recourse to any state court or other judicial authority, insofar as such waiver may be validly made. Notwithstanding anything to the contrary in this Agreement, either party may at any time seek an interim injunction or other interlocutory relief in a court of competent jurisdiction in order to protect any urgent interest of such party, including, but not limited to, the confidentiality provisions of this Agreement. The law governing the arbitration agreement contained in this Section, the arbitration, and the conduct and procedure of the arbitration, shall be the laws of England and Wales. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Construction Contract Award - Little Dry Creek Trail Federal to Lowell Project

Prepared By: Seth Plas, Senior Engineer

Recommended City Council Action

Authorize the City Manager to award the bid and execute a contract with the low bidder, Concrete Express, Inc. d/b/a CEI, in the amount of \$777,487.70 for the construction of the Little Dry Creek Trail Federal to Lowell project; and authorize a construction contingency of \$252,512 for a total authorized expenditure of \$1,030,000.

Summary Statement

- In 2012, City staff, in collaboration with Adams County, applied and was awarded a Denver Regional Council of Governments (DRCOG) grant to construct 10-foot wide concrete trail connecting to the Little Dry Creek regional trail system and a pedestrian bridge allowing access to the Westminster Station platform from the proposed Creekside Drive.
- The Federal grant and required local agency match for this project are distributed the following way between the City and Adams County:
 - Westminster: \$324,000 (DRCOG grant)
\$81,000 (local agency match)
 - Adams County: \$500,000 (DRCOG grant)
\$125,000 (local agency match)
- An Intergovernmental Agreement (IGA) between the City and Adams County, approved by City Council on January 26, 2015, provides that the City will manage the project with reimbursement from the County upon completion.
- Requests for bids for the construction of the project were advertised in the Daily Journal on September 30, 2015. Six bids were received and opened on November 2, 2015. The lowest bidder is CEI with a bid of \$777,487.70.
- The City is working with the Colorado Department of Transportation (CDOT) and Adams County to include additional work to the project, such as increasing the amount of trail in order to use as much of the DRCOG grant funding as possible.
- Should CDOT approve the additional work, the proposed contingency would authorize Staff to spend the full DRCOG grant award on those additional construction activities.

Expenditure Required: \$ 81,000 (City of Westminster)
\$125,000 (Adams County)
\$824,000 (DRCOG)

Source of Funds: Stormwater Fund - Little Dry Creek Regional Detention Project

Policy Issue

Should the City proceed with awarding the construction contract to CEI for the Little Dry Creek Trail: Federal to Lowell project?

Alternative

City Council could choose to not move forward with this project. However, to choose not to proceed with awarding the construction contract could result in losing \$824,000 in DRCOG grant funds already obligated to the project. City staff recommends awarding this construction contract.

Background Information

In 2012, City staff, in collaboration with Adams County, applied for and, was awarded, a Denver Regional Council of Governments (DRCOG) grant. The scope of the grant included constructing a 160-foot pedestrian bridge spanning Little Dry Creek, and approximately 3,000-feet of 10-foot wide concrete trail as part of the Little Dry Creek regional trail system. The project will improve the existing trail system segment from Lowell Boulevard to Federal Boulevard that is deteriorating.

The pedestrian bridge and concrete trail package for this project was advertised in the Daily Journal and the City’s website for five weeks, and bids were opened on November 2nd. Six contractors submitted bids on this project, and the low bid of \$777,487.70 being submitted by CEI. It is recommended that City Council award the construction contract to CEI.

The bid results are as follows:

<u>Bidder</u>	<u>Amount of Bid</u>
CEI	\$777,487.70
PLM Asphalt & Concrete, Inc.	\$821,324.90
Technology Constructors, Inc.	\$927,354.00
ECI	\$929,812.13
Jag’s Enterprises, Inc.	\$965,409.00
Duran Excavating, Inc.	\$1,057,388.30
Engineer’s Estimate from Muller Engineering	\$1,083,921.00

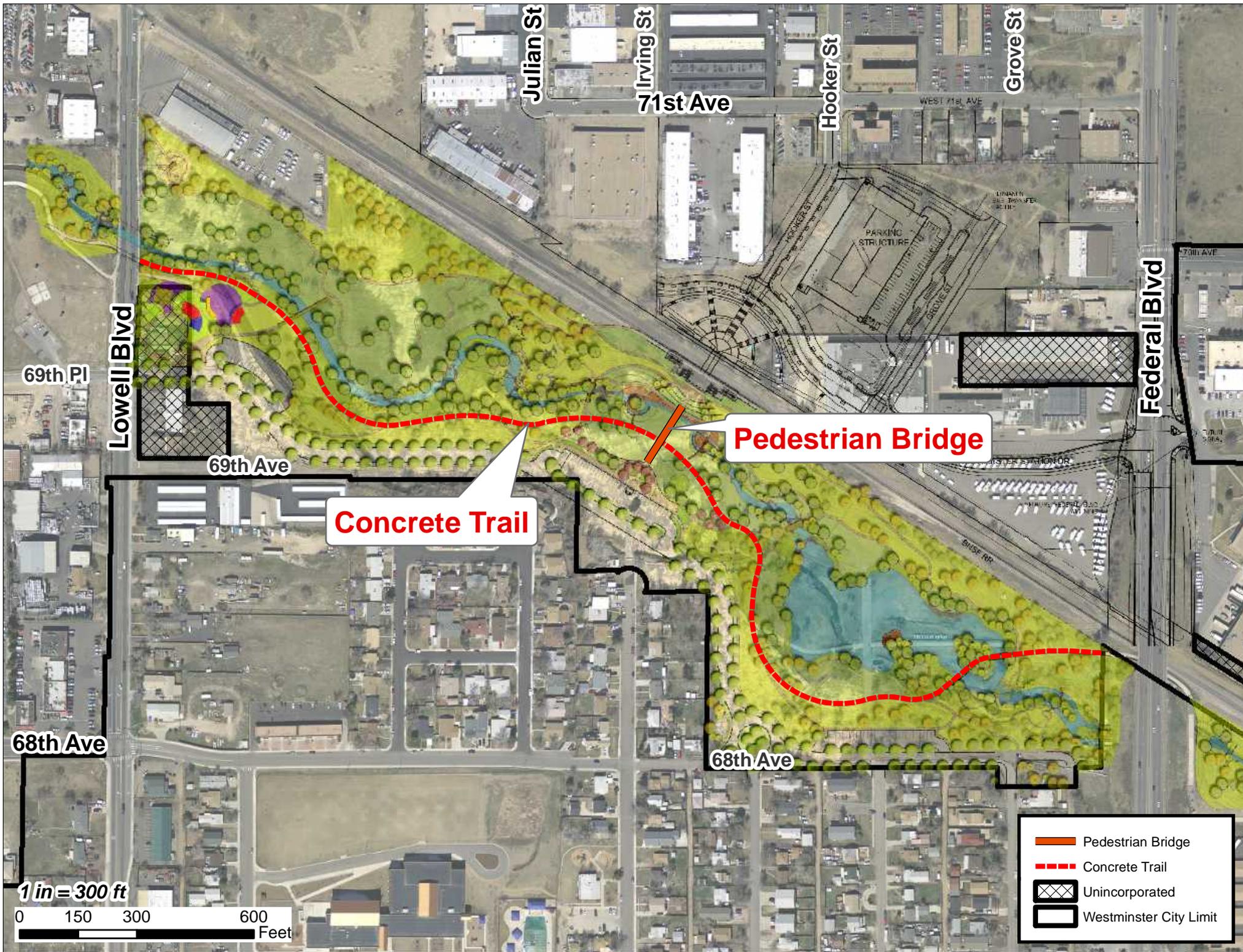
After the completion of this project, commuters south of the Westminster Station will be able to have ADA access to the station using the pedestrian bridge. The concrete trail will be multi-modal; therefore, bicyclists as well as the walking population will be able to enjoy the future park between Lowell Blvd. and Federal Blvd.

This project meets Council’s Strategic Plan goals of a *Proactive Regional Collaboration; Beautiful, Desirable, Safe and Environmentally Responsible City; and Ease of Mobility* by providing an improved trail system and Westminster Station access.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments: Vicinity Map



69th Pl

Lowell Blvd

69th Ave

Concrete Trail

68th Ave

68th Ave

Julian St

Irving St

71st Ave

Hooker St

Grove St

Pedestrian Bridge

Federal Blvd

1 in = 300 ft

0 150 300 600 Feet

-  Pedestrian Bridge
-  Concrete Trail
-  Unincorporated
-  Westminster City Limit



Agenda Item 8 E-F

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Traffic Signal and Street Light Maintenance 2016 Contract Award and Amended 2015 Contract

Prepared By: Greg Olson, Transportation Systems Coordinator

Recommended City Council Action

1. Based on the report of the City Manager, find that the public interest would be best served by accepting the bid for this work from W.L. Contractor, Inc. and authorize the City Manager to execute a contract with W.L. Contractors, Inc. in the amount of \$257,590 for traffic signal and street light maintenance for calendar year 2016 with an option for a one-year renewal.
2. Authorize the City Manager to execute an amended contract with W.L. Contractors, Inc. adding \$7,000 to the existing contract to provide traffic signal and street light maintenance for the remainder of 2015.

Summary Statement

- The City utilizes the services of a private contractor to perform maintenance of the City's traffic signals. The current contract expires on December 31, 2015, and it is estimated that an additional \$7,000 will be necessary to make the final 2015 payments to the City's maintenance contractor.
- Since 2014, the maintenance of City-owned street lights was added as a component of the traffic signal maintenance contract. Prior to that year, all street light maintenance was performed by Xcel Energy since at the time all of the City's street lights were owned by Xcel.
- Two proposals were received on October 28, 2015, for the contract of traffic signal and street light maintenance in 2016. The supply of firms engaged in this type of business within the Denver-metropolitan area is very limited; Staff is aware of only one other qualified, local firm, and that company chose not to submit a proposal. City Council action is requested to award the 2016 traffic signal and street light maintenance contract to W.L. Contractors, Inc. based upon the superior quality of this company's proposal.
- The contract amount is within the amount budgeted in the 2016 operating budget of the Department of Community Development for traffic signal and street light maintenance activities.

Expenditure Required: \$257,590 in 2016 and an additional \$7,000 in 2015

Source of Funds: 2016 General Fund - Community Development Operating Budget
2015 General Fund - Community Development Operating Budget
2015 General Capital Improvement Fund - Traffic Signal System Improvements

Policy Issue

Should the City continue the practice of outsourcing traffic signal maintenance to a private contractor?

Alternative

An alternative to the recommended action is to not enlist the full-time services of a private contractor. This alternative would require the City to hire in house staff and invest in the equipment necessary to perform basic traffic signal maintenance. The part-time services of a contractor would still be required to provide assistance for major emergency repairs and share with the after-hours maintenance responsibility of the 24 hours/7 days a week operational requirements. Staff continues to annually investigate the feasibility of performing in-house traffic signal maintenance. A quick analysis this year indicates there may be a cost savings based upon personnel and equipment fees submitted by the contractors during the proposal process. Staff will conduct a service level analysis during 2016 as part of the preparation of the 2017-2018 budget and return to City Council with a recommendation.

Background Information

The City utilizes the services of a contractor to perform maintenance on City traffic signals at 104 intersections and 9 pedestrian crossings (total of 113 installations). Starting in 2014, the City incorporated the maintenance of City-owned street lights into the traffic signal maintenance contract. In the last two years, several commercial, residential and capital projects were completed with 245 City owned street lights now operational and another 100 lights anticipated to be added for 2016. City Staff anticipates that street light maintenance costs will be minimal for 2016 with most newly constructed street light fixtures warranted by the installation contractor and the inherent low maintenance costs of LED lights for 7 to 10 years following installation. In accordance with Council’s wishes, City staff has directed that all new City owned street light fixtures utilize LED lamps to maximize energy efficiency and to accommodate lower overall maintenance costs.

In years past, traffic signal maintenance contractors were solicited using the standard bidding procedure with the qualified contractor submitting the lowest bid receiving the contract award. Due to the inherent safety impacts and increasingly complicated technical aspects of the City’s traffic signals and communications network, it became apparent that a selection process that emphasizes quality of service via a Request for Proposal (RFP) format was appropriate. The RFP process, initiated in 2009, requires the contractor to explain in detail exactly how its company would provide the requested services in addition to defining the costs for those services. For the 2016 Traffic Signal and Street Light Maintenance contract, an RFP review panel was utilized comprised of City staff and an engineering representative from a neighboring agency. The review panel independently evaluated the proposals and calculated a total score for each contractor. The contractor’s proposal receiving the highest score is being submitted to City Council for approval. The results of the panel’s review of the submitted proposals are as follows:

Contractor	Proposed Fee	Panel Score
W. L. Contractors, Inc.	* \$267,590	94
Sturgeon Electric, Inc.	\$252,445	90

*This amount was reduced to \$257,590 during subsequent negotiations

The 2015 traffic signal maintenance contract, which was renewed with WL Contractors, Inc. in December 2014, expires on December 31, 2015. For 2016, the proposal receiving the highest panel score of 94 points was submitted by W.L. Contractors, Inc. The fee proposed by W.L. Contractors, Inc. represents a 10% increase over the 2015 contract amount, so staff contacted this proposed contractor and negotiated an overall increase of 4.3% by reducing personnel and equipment hourly costs for a revised fee of \$257,590. This company has satisfactorily performed the City’s traffic signal maintenance since 2009. City Staff is confident that W.L. Contractors will continue to provide the high level of service that the City expects for traffic signal and street light maintenance activities in 2016.

The 2016 Traffic Signal and Street Light Maintenance contract is based upon a conservative, estimated annual amount of labor, equipment hours and materials for the performance of all traffic signal maintenance functions. There are two general categories of work activities that provide the basis for the estimated hours of equipment and labor unit prices in the traffic signal maintenance contract: annual preventive (routine) maintenance and additional traffic signal (occasional) maintenance.

The RFP required the contractors to submit their proposed fee schedule for the year 2016 with the option to renew for one additional year at the City's sole discretion. A 2017 contract renewal would only be exercised if the contractor's performance warrants it, the City Council has appropriated adequate funding, and the City has determined that continuing to contract for this service is the most cost-effective choice.

The 2014-2015 traffic signal maintenance contracts were authorized by Council on December 9, 2013, with W.L. Contractors, Inc. in the amount of \$251,956. The current contract expires on December 31, 2015. Signal maintenance services are performed and billed monthly on an "as-needed" basis. It has become apparent to City staff that additional funds will be necessary to cover all of the costs expected to be incurred by the City by the end of 2015. At the beginning of this year, Engineering Division operating budget funds were used to replace four traffic signal poles that required immediate replacement and required the City's maintenance contractor to hire an engineering inspection consultant to perform ultrasonic testing of other severely rusted traffic signal poles in the City at a total cost of approximately \$58,000. These emergency expenditures along with normal maintenance have increased the funds needed for 2015, and it is estimated that an additional \$7,000 would be sufficient to cover the final payments to W.L. Contractors, thus bringing the contract total to \$258,956. Funds are available within the 2015 Community Development, Engineering Division operating account and 2015 General Capital Improvement account to cover the additional expense.

The proposed 2016 contract award and 2015 contract amendment is in line with two of City Council's strategic objectives including a *Dynamic, Diverse Economy* by investing in a well-maintained and sustainable City infrastructure and *Ease of Mobility* by providing an efficient and reliable transportation system.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Oracle Annual Service Contract for the JD Edwards Financial Management System

Prepared By: Cherie Sanchez, Accounting Manager

Recommended City Council Action

Based on a recommendation of the City Manager, City Council finds the public interest will best be served by authorizing the City Manager to waive the City's bidding requirements and execute a sole source agreement in the amount of \$91,630 with Oracle for annual maintenance on the JD Edwards Financial Management System for the fiscal year 2016, with an option to renew for four additional one-year terms in amounts not to exceed \$91,630 per year for 2017 through 2020, subject to annual appropriation, for a total cost of \$458,150.

Summary Statement

On February 28, 2000, City Council authorized a contract with JD Edwards (JDE) for the purchase of software, installation services and a maintenance agreement for the financial management system.

The current fixed price maintenance agreement is based on a contract addendum dated April 14, 2000, which states that maintenance fees shall be charged based on seventeen percent (17%) of net software license fees. The cost of the annual service contract totals \$91,630 per year, based on original software license fees totaling \$539,000.

Since 2000, the City has contracted for service and upgrades with JDE software owners, which have included JD Edwards, PeopleSoft and now Oracle. Through these corporate transitions, the City's service contract provisions have been preserved.

While other vendors provide on-going maintenance, Oracle is the only vendor that provides technological updates and upgrades for JDE. Oracle also has the level of expertise needed to support the City's financial management system.

Sufficient funds are budgeted in 2016 to pay for the annual service contract. Funding of additional fiscal year contracts would be contingent upon annual appropriation.

Expenditure Required: Not to exceed \$458,150 for fiscal years 2016-2020

Source of Funds: General Fund Operating Budget – Finance
General Fund Operating Budget – General Services

Policy Issue

Should City Council enter into a sole source contract with Oracle for the annual maintenance of the JD Edwards software system?

Alternatives

1. Require a formal bid process for the maintenance of the JD Edwards system. This is not recommended. While it may be possible that the City could contract with a lower cost vendor for maintenance of the system, the City would not receive the updates and upgrades for the system that are provided solely through Oracle.
2. Do not have an annual maintenance contract on the JD Edwards system. This is not recommended as operating without a service contract is risky and would eliminate the City's access to technological upgrades provided solely through Oracle.

Background Information

For the past 15 years, JDE has been the integrated Human Resource, Payroll and Financial Management system of the City. JDE was selected in 2000 based on its functional capabilities, lower cost of ownership and stronger technical and business partner fit, as compared to other systems that were evaluated by an internal steering committee.

The original agenda memorandum approved by City Council on February 28, 2000, provided for the purchase of the software, installation services and a two-year discounted maintenance contract on the system. A contract addendum dated April 14, 2000, established a fixed price maintenance agreement that includes all system updates and upgrades.

The software license services and maintenance agreement states that maintenance fees shall be charged based on seventeen percent (17%) of net software license fees. The annual service contract cost of \$91,630 per year is based on original software license fees totaling \$539,000. This is a very good deal for the City as the maintenance fees, (which can increase at double digit rates) have remained the same for the past 15 years and will continue to remain the same.

Since 2000, the City has contracted for service and upgrades with successive owners of the JDE software system including JD Edwards, PeopleSoft and now Oracle. Through these corporate transitions, the City's service contract provisions have been preserved. Oracle is the sole source vendor for providing technological updates and upgrades for JDE. They also have the level of expertise needed to support the City's financial management system.

The JDE software annual service contract provides for the continuity of system support and upgrades, which are essential for keeping up with the ever changing government reporting environment, the optimal operation of the financial management system and integrity of the City's critical financial data.

Staff recommends City Council waive the bidding requirement for the JD Edwards annual service contract based on Oracle being the sole source provider of technological upgrades for the JD Edwards Financial Management System and authorize the annual service contract for support and maintenance at a fixed cost of \$91,360 for 2016, with an option to renew for an additional four one-year terms in amounts not to exceed \$91,630 per year for fiscal years 2017 through 2020, subject to annual appropriation, for a total cost of \$458,150.

These recommendations support City Council's strategic plan goal of Financially Sustainable Government Providing Excellence in City Services.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Additional Expenditure Authorization for Public Defender Services to David Rockwell

PREPARED BY: Patricia Kmitta, Municipal Court Administrator
Matthew E. Booco, Business Operations Coordinator

Recommended City Council Action

Authorize the additional expenditure to David Rockwell for 2015 public defender services at the Municipal Court in the amount of \$15,000 to the previous Council approval of \$ 80,000, increasing the total authorized expenditure to \$95,000.

Summary Statement

- City Council is requested to approve \$15,000 in additional funding to David Rockwell for 2015 public defender services at the Municipal Court.
- On November 10, 2014, City Council approved the contract with David Rockwell to provide public defender services at the Municipal Court in 2015 for \$80,000. Council also authorized up to four one-year renewals based on renewal provisions contained within the contract. The Contract price for renewal periods shall be negotiated and agreed to by both parties, and any adjustment shall not exceed the annual percent change of more than 1% per year
- One of the services provided within the public defender services contract scope is the provision for appointment of “Conflict Counsel.” The Municipal Court experienced an extraordinary year in regards to “Conflict Counsel” requests. Six appeal cases were filed in 2015 by one single defendant. Due to the defendant’s indigency, the Court was required to provide the services of a conflict attorney, at a total cost of \$12,222.72. In addition, the Court also paid \$3,000 in transcripts. The same defendant has 6 other cases still pending before the Court. The Court anticipates that appeals will also be filed in the majority – if not all – of these cases. Provided the defendant remains indigent, the Court will once again be required to pay for the services of a conflict attorney, plus transcripts costs.
- Funding has been appropriated and is available in the 2015 Municipal Court operating budget for this additional expenditure.

Expenditure Required: \$15,000

Source of Funds: General Fund – 2015 Municipal Court Budget

Policy Issue

Should City Council authorize an additional expenditure of \$15,000 for public defender services to David Rockwell?

Alternative

City Council could decide not to approve the additional expenditure authorization to David Rockwell and direct Staff to negotiate with several attorneys to provide "Conflict Counsel" services. Staff does not recommend this alternative due to the administrative burden and expenses that would be incurred.

Background Information

Public defender services are provided to indigent defendants in cases where jail time may be imposed if the defendant is convicted. The judges can appoint a public defender when justified by a defendant's lack of financial resources or mental incapacities.

The public defender confers with defendants to determine the issues involved in the case. The public defender explains the elements the prosecution must prove, and the consequences of a guilty plea to the original charge(s) or other possible charge(s). Public defender representation ends upon sentencing. If a defendant appeals or has probation revocations, the defendant must reapply and qualify for representation.

The public defender is scheduled every Wednesday. Hearings are scheduled at 8:00 a.m. for arraignments, pre-trials, hearings and in-custody matters. An afternoon docket starts at 1:00 p.m. and consists of pre-trials, Trials to the Court, and Jury Status Conferences. Public defender services are also required in court on the Thursdays when public defender cases are scheduled for jury trial(s). Double jury trials are scheduled every other Thursday. Additional public defender coverage is required in the event two public defender jury cases proceed to jury trial. The public defender is responsible to provide additional coverage for double jury trial days. The public defender dedicates additional work hours to client interviews, discovery, case development and preparation.

On September 11, 2014, two sealed bids were submitted and opened by the City Purchasing Agent and the Court Administrator. The two bidders were: David Rockwell and Linda Lauchli. The flat rate proposal from Linda Lauchli was \$67,500 and the flat rate proposal from David Rockwell was \$70,000.

On September 25, 2014, a six-member oral board selection panel conducted interviews. The selection panel was comprised of Councillor Alberto Garcia, General Services Director Debbie Mitchell, Court Administrator Carol Barnhardt, Probation Supervisor Brian Poggenklass, Senior Human Resource Analyst Donna Diaz, and Assistant City Attorney Leslie Annand. Both of the candidates participated in an interview that covered approximately 15 questions and both candidates submitted written responses to 12 questions.

The following factors were considered for each candidate:

1. Prior Experience as Public Defender;
2. Communication Skills;
3. Credibility;
4. Attitude, Interest, Motivation; and
5. Overall Impression.

As a result of this process and after an in-depth discussion, the selection panel recommended that Council approve a contract with David Rockwell based on his experience in criminal law and his interest in providing this service to indigent defendants. The selection panel determined that David Rockwell has the requisite qualifications to perform the public defender services.

On November 10, 2014, City Council approved the contract with David Rockwell to provide public defender services at the Municipal Court in 2015 for \$80,000. The requested funding for this action was \$70,000 for the public defender base agreement, funds for conflict counsel and additional allowable and reimbursable expenses of up to \$10,000 for a total of \$80,000 in anticipated expenses for 2015 public defender services. Council also authorized up to four one-year renewals based on renewal provisions contained within the contract. The Contract price for renewal periods shall be negotiated and agreed to by both parties, and any adjustment shall not exceed the annual percent change of more than 1% per year

The Municipal Court experienced an extraordinary amount of requests for conflict counsel as demonstrated below. In addition to general conflict attorney appointments, the Court was required to appoint a conflict attorney on 6 appeal cases filed by one singular indigent defendant, at a total cost of \$12,222.72. The Court was also required to pay for transcripts. The Court anticipates similar costs for 2016 as the same defendant currently has six other cases still pending, with trials dates already set on all of the cases. Trials have been held in two of these cases, and the Court has received notice that appeals will be filed on both.

Historical Municipal Court Conflict Counsel Expenditures	
2011	\$ 2,749
2012	\$ 1,183
2013	\$ 1,525
2014	\$ 8,070
2015 YTD (January – October)	\$ 15,289

This Staff recommendation achieves the Strategic Plan Goals of “Financially Sustainable Government Providing Excellence in City Services” by providing services for indigent defendants in cases where jail time may be imposed if the defendant is convicted.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Refurbish and Remount Ambulances on New Ford Vans

Prepared By: Jeffery H. Bowman, Fleet Manager
Erik Birk, Battalion Chief/EMS Coordinator

Recommended City Council Action

Authorize the refurbishment and remount of two ambulance bodies on new Ford vans in 2016, utilizing the City of Westminster Request for Proposal award to Front Range Fire Apparatus and American Emergency Vehicles, for the amount of \$213,506. In addition, a 10% contingency is requested in the amount of \$21,351 bringing the total expenditure request to \$234,857.

Summary Statement

- City Council action is requested to authorize the refurbishment and remount of City of Westminster ambulance bodies numbers 5215 and 5216 onto new Ford cab/chassis vans, using the City of Westminster Request for Proposal (RFP) GS 7-11-0-2015 to Front Range Fire Apparatus and American Emergency Vehicles (AEV), for the amount of \$213,506.
- City of Westminster RFP GS 7-11-0-2015 also states that the vendor may be asked to refurbish four (4) additional City of Westminster ambulances, one per year, beginning in 2017. All six of the ambulances to be refurbished are Ford E450, MEDTEC, 168" Modules, and it is expected that all will be refurbished and remounted on a type III ambulance body on a new Ford cab/chassis van in the future.
- City Council previously approved \$123,000 in the 2015 Public Safety Tax - General Capital Outlay Replacement Fund (PST-GCORF) budget and \$126,000 in the 2016 PST-GCORF budget to refurbish and remount ambulance body number 5215 and 5216 on new Ford cab/chassis vans.

Expenditure Required: \$234,857

Source of Funds: Public Safety Tax General Capital Outlay Replacement Fund

Policy Issue

Should the City proceed with the refurbishment and remount of two ambulance bodies on new Ford vans in 2016, utilizing the City of Westminster Request for Proposal award to Front Range Fire Apparatus and AEV?

Alternatives

1. Reject the City of Westminster bid award for the refurbishment and remount of two ambulance bodies on new Ford cab/chassis vans and instruct City Staff to re-bid the ambulance refurbishment and remount process. This is not recommended because the City of Westminster bid award reflects a competitive bid process that provided ambulance refurbishment and remount vendors the opportunity to compete fairly to provide this specialized service.

2. Do not proceed with the proposed refurbishment and remount of two ambulances in 2016. This is not recommended because these ambulances have a costly maintenance history that makes it impractical to keep in regular service based on Fleet Maintenance recommendations.

Background Information

The Fire Department provides fire-based EMS and has provided ambulance transport since 1991 with five (5) front line ambulances and two (2) reserve ambulances, which transport approximately 5,200 patients a year to area hospitals. Beginning in early 2015, the Fire Department and Fleet Maintenance researched the option of refurbishing ambulance boxes, rather than a buying a complete new box and cab/chassis every 6 years. On August 18, 2015, the City of Westminster issued an RFP to three vendors who are known to provide the specialized service of ambulance box removal, followed by a thorough refurbishing and then remounting on a new model van cab/chassis. The RFP requested the vendor perform the immediate refurbishing and remounting of two (2) ambulance bodies on new Ford E450 cab/chassis. The vendor may also be asked to refurbish four (4) more, at one per year starting in 2017 with escalating prices in future years. All six of the ambulances to be refurbished are Ford E450, Med-Tec, 168” Modules. Only two vendors submitted bids and after site visits to both remanufacturing facilities by Fire and Fleet Maintenance Staff, Front Range Fire Apparatus, partnering with AEV was selected. The following Bid Tabulation outlines the comparison of vendors:

City of Westminster Bid Tabulation

	Ft. Range AEV	Braun N.W.	Rocky Mountain Emergency Vehicles
Advertised Price each	\$92,010	\$96,331	No Bid
Transportation	(\$8,100)	(\$2,200)	No Bid
Whelen Lights	\$1,656	\$0	No Bid
Delivery	90 Days	60 Days	No Bid
Electric Warranty	7/70	1/24	No Bid
Local Warranty	Yes	No	No Bid
Camera Transfer	\$0	(\$1,500)	No Bid
Base Price with Deductions	<u>\$85,566</u>	\$92,631	No Bid
Base Price Difference	(\$7,065)	\$0	No Bid
Total with 2 way transport	<u>\$93,666</u>	\$97,031	No Bid
Diff w/ 2 way transport	(\$3,365)	\$0	No Bid

Once the box is removed and the refurbish process has begun, unseen damage may be discovered. The request for an additional 10% will allow the refurbish and remount process to proceed on schedule once Fleet and Fire Staff review and approve the additional work. Additional safety equipment and upgrades have been researched and it is recommended that the items selected below are added to the refurbish process before the box is remounted on the new Ford van Cab/chassis. These additional items will upgrade the current 2008 ambulance box to 2016 Ambulance standards. These recommended upgrades are priced below:

Additional Safety Equipment and Upgrades

AEV Style Squad Bench	\$ 1,057.00
Add (2) 6 Point Harness to Squad Bench	\$ 1,320.00
Add Squad Bench Seatbelt/Harness Alarm	\$ 711.70
Squad Bench Safety Net	\$ 283.80
Orange Squad Bench Straps	\$ 95.70
Sharps/Bio Waste ABS Rim with Red Lid to Squad Bench	\$ 116.60
Add 6 Point Harness to CPR Seat	\$ 1,100.00
Add CPR Seatbelt/Harness Alarm	\$ 355.30
Add Carbon Monoxide Detector	\$ 196.90
Add Stryker Power Load Prep Kit	\$ 623.70
EVS Attendant Seat Alarm	\$ 217.70
Indicator Panel for Seatbelt/Harness Alarms	\$ 646.80
Weld and Repair Window Opening above Squad Bench	\$ 632.50
TMS Life Pack 15 Mount	\$ 1,155.00
Solid Surface Counter to Action Area	\$ 838.20
Solid Surface Counter to Telemetry Area	\$ 735.90
Scene Lighting	\$ 3,000.00
Total	\$ 13,086.80

Ambulance body number 5215 was scheduled to be refurbished and remounted onto a new Ford van Cab/chassis in 2015, but due to the complexity of the bid process, the timing for 5215 will carry into 2016, with a start date of March 16, 2016. Ambulance box 5216 will follow with a start date of July 11, 2016. The ambulances identified in the table below have reached a point where they are no longer economically reasonable to maintain in service. Please note, the life-to-date equipment maintenance costs in the table does not include fuel cost.

General Capital Outlay Replacement Fund

CITY DEPARTMENT	REPLACEMENT VEHICLE	YEAR MILES	LIFE-TO-DATE VEHICLE MAINTENANCE COST	NEW VEHICLE MAKE/MODEL	NEW VEHICLE PRICE	CITY OF WESTMINSTER RFP AWARD
Fire Department	5215 Ford Med-Tec Ambulance	2008 106,989	\$43,873	2016 Ford E 450 with Refurbished Med-Tec Ambo	\$106,752.80	Front Range Fire and AEV
Fire Department	5216 Ford Med-Tec Ambulance	2008 91,959	\$56,070	2016 Ford E 450 with Refurbished Med-Tec Ambo	\$106,752.80	Front Range Fire and AEV

Maintenance and repairs on both ambulances have increased in recent years and reliability of both 5215 and 5216 are a concern. This recommended purchase meets Council's Strategic Plan Goal of "Financially Sustainable Government Providing Excellence in City Services" by keeping a highly dependable fleet of safety vehicles on the job and by obtaining the best possible price using an ambulance refurbish and remount process, rather than buying new ambulance boxes.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
December 14, 2016



SUBJECT: 2016 Server and Computer Replacement Purchases

Prepared By: David Puntenney, Information Technology Director
Scott Rope, Information Systems Manager

Recommended City Council Action

Find that the Western States Contracting Alliance pricing meets City Charter bidding requirements and authorize Staff to proceed with 2016 calendar year purchases of laptop and desktop PCs, storage hardware, computer servers, printers and software from Apple, Microsoft, Dell, HP, Lenovo, Ram Computer Supply and SHI Corporations in an amount not to exceed \$360,025.

Summary Statement

- The City uses 37 physical and 201 virtual servers to support software applications and provide services for all departments.
- Servers and laptops are replaced on a four-year replacement schedule and desktop computers are replaced on a five-year replacement schedule in order to provide a high level of reliability, availability and performance.
- Maintenance contracts for servers more than four years old are expensive.
- City Council authorized adequate funds in the 2016 Utility Fund Information Technology Department operating budget to purchase replacement servers and software.
- City Council authorized adequate funds in the appropriate 2016 Utility Fund, General Golf and POST Funds department’s operating budgets for the purchase of departmental PCs via the PC Replacement fee managed in the General Capital Outlay Replacement Fund (GCORF).
- The City purchases hardware through Microsoft, Dell, HP, Lenovo, Ram Computer Supply and SHI at or below the Western States Contracting Alliance (WSCA) contract prices, therefore meeting the City Charter bidding requirements. The prices under this joint purchasing contract are well below what the City could achieve purchasing on its own.
- The City is scheduled to replace and purchase new a total of 136 desktop computers, 8 laptops, 3 Dell semi-rugged laptops, 25 iPads and 11 servers in 2016.
- Technology purchases and services including software maintenance, disk storage, monitors, RAM and related supplies are also purchased through Apple, Microsoft, Dell, HP, Lenovo, Ram Computer Supply and SHI at or below the Western States Contracting Alliance (WSCA) contract prices and are included in the total projected 2016 amount.
- Decommissioned desktop and laptop computers are donated to the 7:10 Rotary Club for the Computers for Kids program.
- Several decommissioned computer servers will be relocated to the City’s computer disaster recovery facility to serve as short-term recovery computers in the event of a disaster at the primary computer facility located at City Hall.

Expenditure Required: \$ 360,025

Source of Funds: Utility Fund, Information Technology Department Operating Budget,
and General Capital Outlay Replacement Fund

Policy Issue

Should the City continue to replace aged and purchase new computer servers, laptop computers and peripheral equipment and software to ensure high availability, performance and capacity to support software applications and users?

Alternative

Forgo the 2016 replacement and purchase of new computer hardware, software and servers. This alternative is not recommended for the following reasons:

- Continued maintenance on older servers is expensive. The City purchases new servers that include a four-year maintenance agreement.
- Application software upgrades frequently require more processing speed and memory. Attempting to upgrade older servers to meet the demands of new applications is many times impossible and not cost effective, especially when combined with the cost of maintaining older computer technology.
- The expected performance and reliability of servers more than four years old is unacceptable for the City's critical applications.
- Older desktop and laptop computers lack the processing power needed to adequately support newer applications.
- New computers approved in the Adopted 2016 Budget are primarily associated with new authorized staff and the computers are needed to be able to properly perform their job responsibilities.

Background Information

The City uses 1342 personal computers, laptops, Chromebooks, ruggedized laptops, Microsoft Windows tablets and Apple iPads throughout all departments, representing an investment of approximately \$1,342,000. These computers provide access to essential software and services needed for City operations.

In 2001, the City established a PC replacement schedule for desktop computers of three years or four years, depending on the type of applications and performance requirements on each PC. In 2005, with the improved reliability and speed of new computers, Information Technology eliminated the three-year replacement schedule, and moved all desktop computers to a four-year replacement cycle. In 2008, IT Staff evaluated the potential savings and risk associated with extending the desktop computer replacement schedule from four years to five years.

Since 2008, Staff has found the modified replacement schedule to be very successful and has realized approximately \$198,000 (an average of \$33,000 per year) in savings. In 2016, the City will purchase up to 25 spare desktop PCs to replace desktop computers that may fail between their fourth and fifth year of use. Additionally, 8 laptops are scheduled for replacement or as additional new laptops in 2016.

In 2006, the Information Technology Department conducted a comprehensive study of "virtualization" technology to determine how such technology could improve computer server availability and reliability while reducing the total number of servers required. Virtualization is the process of configuring an individual server to function as multiple virtual servers, thereby allowing multiple applications to be run on the same server. The study concluded that virtualization would result in a long-term cost benefit to the City by reducing the required number of servers. In 2007, Staff began the virtualization project and has successfully eliminated 45 servers, reducing the total number of servers from 82 to 37. Without virtualization, the City would be replacing on average 12-15 servers per year. In 2016, 11 servers are scheduled to be replaced. As a result of virtualization, the City has reduced the replacement budget and realized an average annual net savings of \$40,000 in server replacement costs.

The City's servers support applications such as Computer Aided Dispatch, Public Safety Records Management, Enterprise Resource Management, Court, Geographic Information Systems, Internet, Intranet, Utility Maintenance Management, Utility Billing, Office tools and many others. These servers are critical to departments to provide internal and external customer service and to conduct critical City operations. The City has established a four-year replacement for computer servers. Several decommissioned servers will be relocated to the City's computer disaster recovery facility to provide short term, more limited use in the event of a disaster at City Hall that would restrict access to or availability of production servers. New servers include a four-year maintenance agreement, so the City does not incur additional hardware maintenance expense during the full production life of the servers.

The City has standardized on Dell computer systems, which have some of the highest customer satisfaction and quality ratings in the industry. The City is very pleased with the overall performance of Dell equipment and the support provided to the City.

Cooperative purchasing is a powerful, proven tool to save taxpayer money by creating access to the best value possible and reducing administrative overhead. WSCA (the Western States Contracting Alliance) and NASPO (the National Association of State Procurement Officials) use a competitive, lead-state procurement model to capture the best value for common government requirements, including personal computers and peripherals. The City purchases Dell hardware, software and peripheral equipment at or below the WSCA prices, thereby meeting City purchasing requirements and minimizing costs. Contract prices are up to 52% below retail, depending on product purchased under the WSCA contracts. Using this approach for purchasing also saves time and money that would normally be associated with RFP development, advertising, evaluating proposals, and contract management.

This proposal supports the City Council's Strategic Plan goal of Financially Sustainable Government Providing Excellence in City Services.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 K

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: 2016 Deicing Salt Purchase

Prepared By: Dave Cantu, Street Operations Manager

Recommended City Council Action

Authorize the purchase of deicing salt primarily from the two low bid vendors to achieve the City's desired 50/50 blend: "Rock Salt" from Independent Salt Company and "Ice Slicer" from Envirotech Services, Inc. and allow purchase of deicer from other sources should Independent Salt Company or Envirotech Services, Inc. be unable to deliver product, in a total amount not to exceed \$380,000.

Summary Statement

- Deicing salt is applied to City streets to ensure safer winter storm travel for residents and visitors.
- 2016 bids for "Rock Salt" were obtained from the Multiple Assembly of Procurement Officials (MAPO). Independent Salt Company Inc. is the low MAPO bidder for 2016 at \$73.20 per ton.
- The 2016 State of Colorado low bid for "Ice Slicer" with Envirotech Services, Inc. is \$106.15 per ton.
- Staff uses a 50/50 blend of "Ice Slicer" and "Rock Salt" that provides optimal deicing performance across the varied conditions experienced in the City.
- Staff estimates that 4,200 tons of deicing salt will be utilized during 2016, roughly divided between the two vendors.
- Staff is also requesting the authority to purchase deicing salt as needed from other vendors to provide flexibility in situations where the two low bid vendors are unable to deliver materials to the City.
- Adequate funds were budgeted and are available for this expenditure.

Expenditure Required: \$380,000

Source of Funds: General Fund – Public Works and Utilities Street Operations Budget

Policy Issue

Should City Council authorize the purchase of deicing salt primarily from low bid vendors Independent Salt Company Inc. (Independent) and Envirotech Services, Inc. (Envirotech), and allow the purchase of deicer salt from other sources if the low bid vendors cannot deliver product in a timely fashion?

Alternatives

1. City Council could choose not to purchase deicing materials. Staff does not recommend this alternative, as the application of deicing materials to the City streets during the winter months supports the City's goal of keeping the streets safe for residents and visitors.
2. City Council could choose to reject all bids and re-bid the MAPO and State salt purchases. This alternative is not recommended since Staff believes the unit cost of salt from the MAPO and State bids represent the best value to the City.
3. City Council could reject the purchase of materials as needed from other vendors. Staff does not recommend this alternative because the ability to purchase materials from other vendors provides Staff flexibility if the two low bid vendors are unable to deliver supplies in a timely manner.

Background Information

Public Works and Utilities snow crews apply deicing materials to the City's streets to ensure safer winter storm travel for residents and visitors. Of the deicing products available, Staff uses a 50/50 blend of "Rock Salt" and "Ice Slicer" that possess specific performance qualities that provide optimal deicing performance across the varied conditions experienced in the City. Using a blend of these materials also keeps the City as active customers with both vendors, diversifying the suppliers from whom the City can purchase deicing materials should the weather cause an increased demand.

Staff obtained bids through the MAPO and State bids. Independent is the 2016 low MAPO bidder for "Rock Salt" at \$73.20 per ton. The 2016 State of Colorado low bid for "Ice Slicer" with Envirotech has been quoted at \$106.15 per ton. "Ice Slicer" is stockpiled and available locally from Envirotech. Generally, an order can be delivered to active customers within one week or can be scheduled to arrive with "Rock Salt" deliveries. "Rock Salt" is shipped via rail from Kansas and generally takes two weeks for delivery. Weather and rail car availability can prolong delivery time.

Staff estimates that 4,200 tons of deicing salt will be utilized during 2016, roughly divided between the two vendors. Staff believes that the MAPO and State prices are reasonable and recommends that Council authorizes the purchase of "Rock Salt" from Independent and "Ice Slicer" from Envirotech Services.

Staff is also requesting the authority to purchase deicing materials from vendors other than the low bidders should City stockpiles become depleted and the two low bidders are unable to deliver materials in a timely manner. During the past two winters, product availability and delivery from the two vendors that Staff utilized was impacted due to high demand, a severe winter along the East Coast, and backlogged rail shipments. Although Staff was able to address the lagging deliveries operationally and services to the City were not impacted, that may not always be possible. The ability to purchase materials from alternative vendors would provide Staff with flexibility if the City's deicing material supplies are in short supply, the two low bid vendors are unable to deliver supplies in a timely manner, and the City is unable to adjust services to compensate.

Other deicing salt suppliers that deliver product to the Denver Metro market that most closely match the City's needs include Compass Minerals "Quicksalt" at \$80.88 per ton and GMCO Corporation's "Rapid Thaw" at \$113 per ton. Staff believes these products would be effective in the absence of the preferred materials. If the City's stockpile is depleted, Staff will look to these alternative vendors and others to provide materials as required to maintain safe travel conditions for residents and visitors.

These expenditures are within the approved 2016 Public Works and Utilities Street Operations Division budget. If the 2016 budgeted amount of \$380,000 for deicing salt is depleted, additional funding may be required. Staff will make a recommendation to City Council if such a situation should arise.

Purchasing these materials through the MAPO bid process helps achieve City Council's goals of "Visionary Leadership, Effective Governance, and Proactive Regional Collaboration" and "Ease of Mobility" by actively working with our partners to achieve lower pricing of materials, and providing safer winter travel for residents and visitors throughout the City of Westminster's roadway system.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 L

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: 136th Avenue and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs Contract

Prepared By: Barb Cinkosky, Street Projects Specialist
Dave Cantu, Street Operations Manager

Recommended City Council Action

Award the bid and authorize the City Manager to execute a contract with Signature Underwriters, Inc. in the amount of \$1,360,239 for the 136th Avenue and 144th Avenue bridge pedestrian railing corrosion repairs contract, and per the maintenance intergovernmental agreement with the cities of Westminster and Thornton, authorize the expenditure of \$714,265 with a contingency of \$65,735 for an amount not to exceed \$780,000, representing the City's share of the total repair costs.

Summary Statement

- The City of Westminster and the City of Thornton share city limit boundaries on the two interchanges over I-25 at 136th Avenue and 144th Avenue, and have entered into intergovernmental agreements (IGA) for the shared maintenance costs of the two bridges.
- The architectural railings on both bridges show varying levels of corrosion and require repair to keep them in good working order.
- Staff from both cities agreed to have the bridges evaluated by two engineering consulting firms to determine the cause of the corrosion and to identify recommended repairs. Both firms reached the same conclusions regarding the condition of the railings as well as the recommended remedial repairs bid in this project.
- Under the terms of the current IGA, these bridges shall be kept in good repair, and any maintenance costs required shall be borne equally by each City. This IGA is set to renew automatically for successive one-year terms.
- The total cost of the project is \$1,360,239. Based on the terms of this IGA, Westminster will pay \$714,265 of the contract repair costs, including a contingency of \$65,735, for a total amount not to exceed \$780,000.
- Due to the City of Thornton's funding constraints, the City of Westminster will pay approximately \$70,000 more for this project to complete it in a timely manner.
- While the project will be awarded in two phases to address funding constraints, construction is expected to begin in early 2016 and is anticipated to be completed by year end 2016.
- The City has adequate funds budgeted and available for this expenditure.

Expenditure Required: \$ 780,000 (City's share – not to exceed)

Source of Funds: General Capital Improvement Fund - Bridge/Pedestrian Railing Repairs

Policy Issue

Should the City contract with Signature Underwriters, Inc. in a joint project with the City of Thornton to repair the architectural railing corrosion on the 136th Avenue and 144th Avenue bridges, with the City's portion of the project costing \$714,265 plus a contingency of \$65,735 with a not to exceed amount of \$780,000?

Alternatives

1. City Council could decline to approve this contract and place the project on hold. However, the existing bridges have been studied by two independent engineering firms with the same conclusions regarding the cause and severity of the corrosion and the same remedial repair recommendations. While the level of corrosion on the pedestrian fences and railings does not currently pose a safety or structural concern, it is unsightly and continues to deteriorate. Delaying the project is not recommended since it will result in increased maintenance repair expenses and if corrosion issues are not addressed in the near term, will eventually result in safety risks.
2. City Council could reject this contract and direct Staff to go back to the City of Thornton to pay their full 50% share of the project costs. Staff does not recommend this alternative because this was already discussed completely with Thornton and rejected. The City of Thornton has completed the appropriation of the majority of funds for its portion of the project and Westminster has sufficient funds for its portion of the project. This project cannot go forward at this time without Thornton's participation.

Background Information

The City of Westminster and the City of Thornton (the Cities) share city limit boundaries on the two interchanges over I-25 at 136th Avenue and 144th Avenue. To delineate each City's maintenance responsibilities on the 136th Avenue and 144th Avenue bridges, the Cities entered into IGAs in December 2001 and December 2003 respectively. In December 2006, these IGAs were amended and updated to combine the former IGAs and address both cities' responsibilities for snow and ice plowing operations, landscaping, traffic signal, roadway, structure and street light maintenance. More recently, City Council amended and restated the 2006 IGA in January 2015 to agree that any maintenance costs to keep all structures in good repair shall be borne equally by each City.

During regular inspections following construction, Staff noticed corrosion on the pedestrian railings of both bridges. Due to concern by the staff of both cities about the condition of the railings, the Cities enlisted the services of Wiss, Janey, Elstner Associates, Inc. (WJE) in 2012 to evaluate corrosion issues with the coatings on the architectural pedestrian fence and rail systems located adjacent to the sidewalk portions of the 136th and 144th Avenue bridges and to recommend remedial actions to address the situation. WJE concluded that the existing pedestrian fencing coating on the 136th Avenue bridge was in better condition, with the original paint system remaining largely intact except for the interface between the pickets and support members. The 144th Avenue bridge fencing was found to exhibit widespread corrosion that was attributed to the use of a different paint system than the one used on the 136th Avenue bridge. WJE's recommended solution was to spot repair the 136th Avenue bridge and recoat it and to sandblast to bare metal the 144th Avenue bridge pedestrian railing and apply the three-coat, zinc-rich paint system that was used on the 136th Avenue bridge.

The project was bid in June 2013, and the only bid received came in unacceptably high and was not awarded. The Cities altered the scope of work and specifications and put the project out for bid in 2014, again resulting in unacceptably high bids. This required the City of Thornton to place the project on hold through one budget cycle to identify and allocate sufficient funds.

In June 2015, Alfred Benesch & Company (Benesch) was retained by the Cities to perform a peer review of the study prepared earlier by WJE. The purpose of this peer review was to evaluate other alternatives to replace and/or rehabilitate the railings while maintaining the desired aesthetic appearance at a lesser cost and with a more durable solution. Benesch's report concurred with the WJE report regarding the cause of

the premature corrosion issue on the railings of both bridges and recommended three alternatives including recoating the existing railings, fabricating and installing new steel railing panels or replacing the existing steel fence panels with new fiber reinforced polymer panels. Staff from both cities determined that the recoating and the new steel panel replacement alternatives were the most cost-efficient and appropriate methods of repairing the corrosion issues. The railing repair projects for both bridges were combined in the November 2015 bid to create a more desirable project for contractors, improve bid timing, reduce I-25 traffic control costs and lessen the overall traffic impacts. The project will be awarded in two phases (144th Avenue bridge to be awarded in 2015, 136th Avenue in early 2016) to allow the City of Thornton to receive their 2016 allocation for this project.

Staff put out a request for bids on November 19, 2015, and received one bid for both components of the project in the amount of \$1,360,239. Signature Underwriters, Inc. was the sole vendor whose bid was received on December 3, 2015, as follows:

Project Component	Component Cost
<u>144th Avenue Bridge Work</u> : Base Bid - remove pickets and rails, sandblast to bare metal and shop paint with a three-coat, zinc- rich paint system, and replace.	\$641,882
<u>144th Avenue Bridge Work</u> : Base Bid Option - shop weld the pickets at the rail sections.	\$68,290
<u>136th Avenue Bridge Work</u> : Base Bid – sandblast, seal picket interfaces and paint railing and posts with the three-coat, zinc-rich paint system, in place.	\$650,067
Total Cost	\$1,360,239

Staff recommends awarding the bid and executing the contract with Signature Underwriters, Inc. in a joint project between the Cities of Thornton and Westminster to individually address the architectural pedestrian fence and railing coating on both bridges utilizing a proven three-coat zinc-rich paint system.

Under the current IGA, each City is responsible for paying 50% of the cost, or \$680,119.50. Both cities have accepted the base bid for the 144th Avenue, and both cities have adequate funding in 2015 to complete this component of the project. The 144th Avenue base bid option is preferred by both cities; however, City of Thornton does not have adequate funding at this time to complete the optional work. The City of Westminster is willing to pay the total cost of the base bid option in order to complete the project in a timely manner. Because the 136th Avenue bridge phase of the project will be awarded in 2016, the City of Thornton will have adequate funds at that time to fully pay their percentage of bridge repairs. While the IGA requires each City to pay 50% of this project’s total costs, Westminster will be paying a slightly higher percentage (53%) of the total project costs.

Construction is anticipated to begin in early 2016, with completion anticipated by year end 2016. Traffic issues will include the closing of local roads, and multiple lane closures of I-25 below both bridges. This traffic control work will require permits and coordination with the Colorado Department of Transportation, and has been included in the bid.

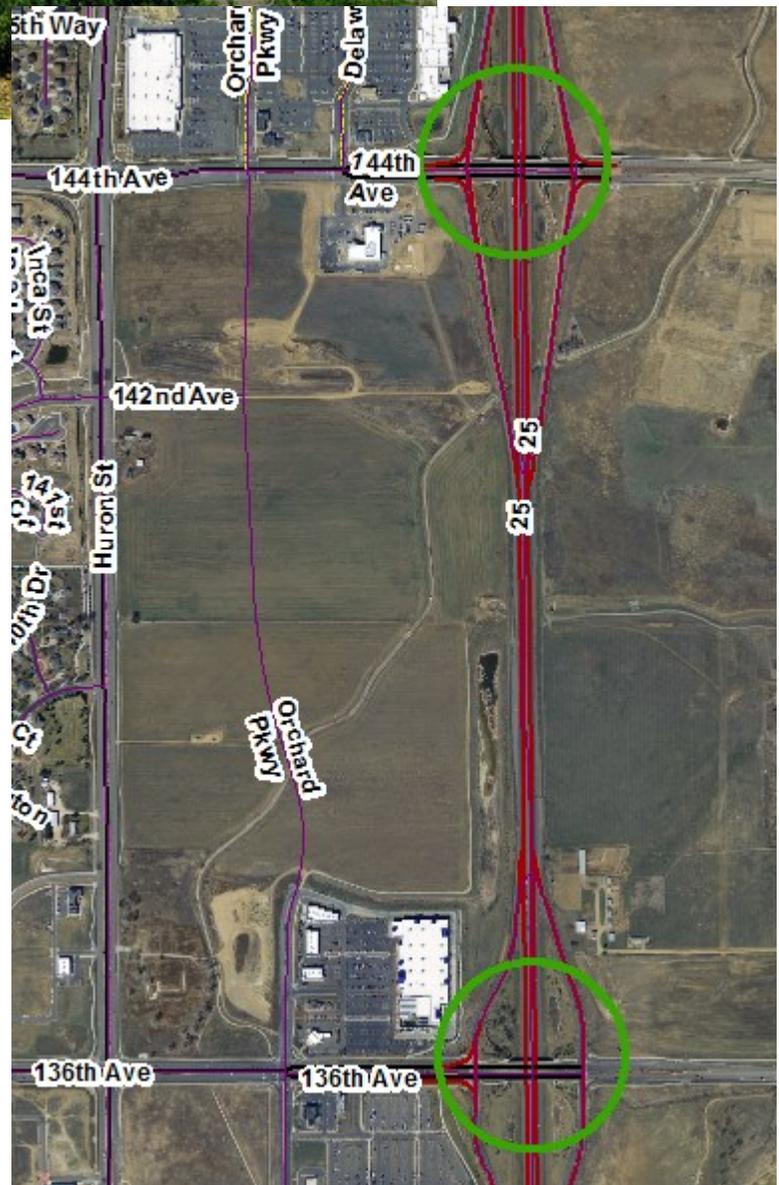
Council action on this item meets elements of three goals in the City’s 2015 Strategic Plan Goals: “Visionary Leadership, Effective Governance and Proactive Regional Collaboration,” “Beautiful, Desirable, Safe and Environmentally Responsible City,” and “Financially Sustainable Government Providing Excellence in City Services” by collaborating with adjacent local governments to provide well maintained, safe city infrastructure for citizens and visitors.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments: Location map and bridge photos
Contract

136th Avenue & 144th Avenue Bridges Pedestrian Railing Corrosion Repairs Project



The 136th Avenue Bridge appears to have localized coating and corrosion issues:

Figure 1. Overview 136th Avenue Bridge conditions



Figure 2. Overview 136th Avenue Bridge conditions



The 144th Avenue bridge appears to have more widespread coating and corrosion issues:

Figure 3. Overview 144th Street Bridge conditions



Figure 4. 144th Street coating/corrosion issues



**THE CITY OF THORNTON
9500 CIVIC CENTER DRIVE
THORNTON, CO 80229-4326**

**Project Manual
For Construction
of**

**136TH AND 144TH AVENUE BRIDGE PEDESTRIAN
RAILING CORROSION REPAIRS**

PROJECT NO. 13-147A

NOVEMBER 2015

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- Appendix 1: 136th Avenue Bridge Drawings
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INVITATION FOR BID PROPOSALS

**City of Thornton
9500 Civic Center Drive
Thornton, CO 80229-4326**

Sealed Bid Proposals for Construction of the "136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A", will be received in the Contract Administration Office at the Thornton City Hall (2nd floor), 9500 Civic Center Drive, until **2:00 p.m., December 3, 2015**. At that time, Bid Proposals will be publicly opened and read aloud.

Project Description: The Project consists of the repair of the architectural fence coating on the 136th and 144th Avenue Bridges over I-25. This is a joint project with the City of Thornton and the City of Westminster (also hereinafter referred to as "The Cities"), with each city responsible for the following phases; **Phase No. 1, Westminster (54.80%), Thornton (45.20%), Phase No. 2, Westminster (50%), Thornton (50%) of each progress payment and joint inspection and oversight through the duration of the Contract.** The Bid includes a 2015-2016 Phase I and a 2016-2017, Phase 2 in which both Options and Alternates are requested as outlined in the Bid Proposal. The successful bidder will be required to extend insurance protection, bonds and indemnification to both Cities. Included in this Project is traffic coordination with the Colorado Department of Transportation (CDOT). It is anticipated that CDOT traffic coordination will require night-time Work in order to complete this Project. The Cities estimate the Work is between five hundred thousand dollars (\$500,000) and seven hundred thousand dollars (\$700,000) for each bridge.

Phase No.1, 144th Avenue Bridge: Work will be awarded in late 2015, the Work includes a Base Bid with an Option No.1 and one (1) Alternate:

Phase No.1, 144th Avenue Bridge, Base Bid: Includes removing, shop cleaning and filling cracks, and painting picket/rail sections with a three (3) coat paint system. Remove and shop clean the supports and guardrails on the barrier between the sidewalk and vehicle lanes and paint with a three (3) coat paint system. Remove and dispose of the existing rub rail and patch all holes in existing posts.

Phase No.1, 144th Avenue Bridge, Base Bid, Option No.1: Includes shop welding the sides of the pickets to the supporting steel on each of the rail sections vs use of mechanical fasteners.

Phase No.1, Alternate No.1: Includes removal of existing architectural fence sections and replacing with new steel painted panels. Field clean and fix cracks as needed, and paint existing bridge fence posts with a three (3) coat paint system. Remove and shop clean the supports and guardrails on the barrier between the sidewalk and vehicular lanes and paint with a three (3) coat paint system. Remove and dispose of the existing rub rail and patch all holes in existing posts.

Phase No.2, 136th Avenue Bridge: Work will be awarded in early 2016, the Work includes a base bid.

Phase No.2, 136th Avenue Bridge, Base Bid: This Work includes field cleaning the areas adjacent to the picket/rail interfaces and other locations where the paint system has failed, fixing cracks and repainting the prepared area with a three (3) coat paint system. Field cleaning of the supports and guardrails on the barrier between the sidewalk and vehicular lanes and paint with a three (3) coat paint system. Removal and disposal of the existing rub rail and patch all holes in existing posts.

Thornton utilizes the Rocky Mountain E-Purchasing System (RMEPS) at www.RockyMountainBidSystem.com to distribute official copies of the Drawings and Project Manual ("Bid Documents") for use in preparing Bid Proposals. Bidders will be required to register with the website to download the Bid Documents and Addenda. There is no charge by Rocky Mountain E-Purchasing for this service. If you experience problems with the RMEPS website, please call 1-800-835-4603 for assistance. Bidders are required to acknowledge all Addenda with their Bid Proposal and are encouraged to either register with the website or to view the Addenda posted on the Contract Administration bulletin board prior to submission of a Bid Proposal. Bidders that do not acknowledge all Addenda may be considered non-responsive. The Bid Documents, including Addenda, are also available for viewing at the Contract Administration office located on the 2nd floor of City Hall at 9500 Civic Center Drive, Thornton, CO. Bidders that do not have download and/or printing capability in-house, may contact a commercial blueprint company or other reprographics company for assistance with downloading and printing the Bid Documents.

An optional Pre-Bid Conference will be held in the City Development Training Room, located at 9500 Civic Center Drive, Thornton, CO 80229 at 1:30 p.m., November 19, 2015. All Prospective Bidders are encouraged to attend.

Each Bid Proposal shall be submitted on form(s) furnished by The Cities and must be accompanied by a certified check, cashier's check, or bid bond in an amount of not less than five percent (5%) of the amount of the Bid Proposal and made payable to the City of Thornton and Westminster.

The successful Bidder will be required to furnish a Performance Bond and a Labor and Material Payment Bond, each in the amount of one hundred percent (100%) of the total Contract Price, in conformity with the requirements of the Contract Documents.

The successful Bidder will be determined on the basis of the lowest responsive and responsible Bid Proposal based on pricing for all options and alternates exercised by the Cities. The apparent successful Bidder(s) will be post qualified. Thornton-based businesses may be granted consideration in evaluation of Bid Proposals, if they meet the following criteria:

- A. The business maintains an office, manufacturing, training, retail, or repair facility within Thornton city limits;
- B. The business has a current Thornton business license;
- C. The business is current on all Thornton obligations; and
- D. The Bidder requests the consideration on the Bid Proposal Form and supplies the necessary documentation.

All nonmonetary bid criteria being equal, Thornton business' Bid Proposals will be discounted for the purpose of evaluating the Bid Proposal prices when compared to non-Thornton-based businesses by the lesser of five percent (5%) of the Bid Proposal price or five thousand dollars (\$5,000).

The Cities reserves the right to reject any or all Bid Proposals, to waive any informalities or irregularities in the Bid Proposals received, and to accept the Bid Proposal which in its judgment best serves the interests of The Cities. The apparent successful Bidder will be required to complete a Reference Authorization and Release Form.

All questions shall be directed in writing to Max Math, Contract Administrator, 9500 Civic Center Drive, Thornton, CO 80229-4326, fax 303-538-7556 or e-mail – max.math@cityofthornton.net, 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding holidays.

First Advertisement: November 12, 2015, Northglenn-Thornton Sentinel

Last Advertisement: November 19, 2015, Northglenn-Thornton Sentinel

BY: *Al Mezarina*
Alberto Mezarina
Contracts Manager

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INFORMATION FOR BIDDERS

The Cities may consider any Bid Proposal to be non-conforming if not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all Bid Proposals.

Bidder may, without prejudice, withdraw a Bid Proposal after it has been submitted to The Cities, provided the request for such withdrawal is received by The Cities, in writing, before the deadline set for submission of Bid Proposals. Telephonic communications withdrawing a Bid Proposal will not be accepted.

Any Bidder may modify its Bid Proposal in writing any time prior to the scheduled deadline for submission of Bid Proposals, provided such modification is received by The Cities prior to the Bid Proposal submission deadline. The modification shall not reveal the Bid Proposal price, but shall provide only the addition or subtraction or other modification so that the final prices or terms will not be known by The Cities until the original sealed Bid Proposal is opened.

Any Bid Proposal received after the time and date deadline specified will not be considered.

After opening of Bid Proposals, a Bid Proposal may not be withdrawn by the Bidder for a period of ninety (90) Calendar Days, or as otherwise required by law. Each Bid Proposal must be accompanied by either a certified check or a cashier's check made payable to the City of Thornton, or a Bid Bond duly executed by the Bidder as principal and having as Surety thereon a Surety company approved by The City of Thornton, in the amount of five percent (5%) of the total Bid Proposal amount. Such checks or Bid Bonds of the three (3) lowest Bidders may be retained by The City of Thornton for a period of ninety (90) Calendar Days after the Bid Proposal opening. Other Bidders' Bid Proposal security will be returned within seven (7) Calendar Days from The City of Thornton receipt of request.

Each Bid Proposal **must be submitted on the Bid Proposal form(s) provided by The Cities** and must be signed by the Bidder or its duly authorized agent. All blank spaces for Bid Proposal prices must be filled in, in ink or typewritten, IN BOTH WORDS AND NUMERALS, where called for in the Bid Proposal.

If there is a discrepancy between the total price in words and the total price in numbers, the total price in words will govern. If there is a discrepancy between the Unit or Lump Sum Prices multiplied by the respective quantities and the extended Bid Proposal Prices for individual Pay Items, the Unit Price or Lump Sum Prices multiplied by the respective quantity shall be the governing number, and the extended price or prices and the resulting Total Price will be adjusted accordingly.

Conditional Bid Proposals will not be accepted.

Each Bid Proposal must be submitted in a sealed envelope bearing on the outside the name of the Bidder, Bidder's address, and the name of the Project and the Project

Number for which the Bid Proposal is submitted. If submitted by mail, package delivery, or courier service, a sealed envelope containing the Bid Proposal must be enclosed in a mailing envelope addressed to the Contracts Manager, 9500 Civic Center Drive, 2nd Floor City Hall, Thornton, CO 80229-4326. Please be sure to note on the outside of the mailing envelope **“Bid Proposal Enclosed, 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A”**.

Simultaneously with the delivery of the executed Contract, the Contractor shall furnish its IRS W-9 taxpayer ID Form, the Affidavit if required, the required insurance certificate(s), required endorsements thereto, ACORD Form 101 if required, and Performance and Labor and Material Payment Bonds as security for faithful performance of the Contract and for the payment of all persons performing labor in connection with the Work covered under the Contract and furnishing Materials in connection with the Contract, as specified in the Contract Documents. The Surety on such Bonds shall be a duly authorized Surety company satisfactory to The Cities. Attorneys-in-fact who sign Bid Bonds or Performance and Labor and Material Payment Bonds must file with each bond a certified and effectively dated copy of their Power of Attorney. The Surety or Sureties must be listed in Federal Circular 570 and must be approved by The Cities. In no case will Sureties with less than a Best's A rating be approved. Insurers, at a minimum, are required to be admitted in the State of Colorado and maintain an A.M. Best Financial Strength Rating of A or higher.

The successful Bidder, upon Bidder's failure or refusal to execute and deliver the required Contract, Bonds if required, insurance certificate(s), additional insured endorsements, ACORD Form 101 if required, the Affidavit if required, and or the W-9 Form within five (5) Calendar Days from and including the date of Notice of Award, shall forfeit to The Cities the security deposited with its Bid Proposal. Notice of The Cities intent to retain the bid security shall either be hand delivered by The Cities to the Bidder's address, as given on the Bid Proposal form, or mailed to such address, first class, United States mail, return receipt requested. Delivery or mailing of the notice to the address provided shall constitute the required notice without the requirement of an acknowledgment of receipt from the Bidder.

Each Bidder must inform itself fully of the conditions relating to the construction of the Work and the employment of labor thereon. Failure to do so will not relieve a successful Bidder of its obligation to furnish all Materials and Equipment and labor necessary to carry out the requirements of the Contract Documents. Insofar as possible, the Bidder, in carrying out its Work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

The Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Work shall apply to the Contract throughout, and will be deemed to be included in the Contract the same as though herein written out in full.

No interpretation of the meaning of the Drawings, Specifications, Addenda, other Bid Documents, Contract Documents, or Pre-Bid Meeting Minutes will be made to any Bidder

orally. If a Bidder who contemplates submitting a Bid Proposal is in doubt about the precise meaning of any part of the proposed Contract Documents, it may submit to Thornton a written request for an interpretation. Every request for such interpretation shall be in writing addressed to Max Math, Contract Administrator, at 9500 Civic Center Drive, Thornton, CO 80229-4326, fax 303-538-7556, or e-mail – max.math@cityofthornton.net, and to be given consideration it must be received by 5:00 p.m. on the tenth (10th) Calendar Day prior to the date fixed for the submission of Bid Proposals. The Bidder submitting the request will be responsible for its prompt and actual delivery. The Cities will not be responsible for any other explanations or interpretations of the Contract Documents which anyone may make on behalf of The Cities. Any and all such interpretations and any supplemental instructions will be in the form of written Addenda to the Bid Documents or to the Contract Documents which, if issued, will be posted on Rocky Mountain E-Purchasing System's website at www.RockyMountainBidSystem.com and on the Contract Administration bulletin board no later than three (3) Calendar Days prior to the date fixed for submission of Bid Proposals. Failure of any Bidder to receive any such Addenda or interpretation shall not relieve such Bidder from any obligation under its Bid Proposal, as submitted. All Addenda so issued shall become part of the Contract Documents. It shall be the responsibility of each Bidder to verify that each Addendum has been received. A bulletin board will be maintained at the Contract Administration Office which will list the current Projects with Bid Proposal due dates and all Addenda, including the date of issue for each. It is recommended that all Bidders check this board for the status of the particular Project they are interested in bidding prior to submitting a Bid Proposal.

At the time of submission of a Bid Proposal, each Bidder shall have completed a thorough site inspection, including, but not limited to, the location, accessibility and general character of the site of the Work and all existing buildings and structures within and adjacent to the Project site, sufficient to satisfy itself as to the nature of the Work, the condition of existing buildings and structures, the conformation of the ground, the character, quality, and the nature of any Construction Equipment and any other facilities needed preliminary to and during construction of the Work, the general and local conditions, the construction hazards, and all other matters, including the labor situation, which might affect the Work. The Bidder also will have carefully examined and be thoroughly familiar with the Contract Documents, including all Addenda, and satisfied itself as to the feasibility and correctness of the Contract Documents for the construction of the Work and that it accepts all terms, conditions, and stipulations contained in the Contract Documents, and is prepared to work in peace and harmony with other contractors performing work at the Project site. Bidders also shall have reviewed the insurance requirements contained in the Contract Documents. The failure or omission of any Bidder to examine any form, instrument, or document shall in no way relieve any Bidder from any obligation in respect to its Bid Proposal. The Bidder is to confirm the completeness of the Contract Documents on which its Bid Proposal is based. If the Bidder determines its Contract Documents are incomplete or irregular, it is the Bidder's responsibility to bring this fact to the attention of the Contract Administrator prior to submitting a Bid Proposal. The Cities invite Bid Proposals on the form(s) included as part of this document to be submitted at such time and place as stated in the Invitation for Bid Proposals. All blanks in the Bid Proposal forms must be appropriately filled in with typewriter or ink. Bidders are

instructed to submit the entire Bid Proposal form. **It is the sole responsibility of the Bidder to see that the Bid Proposal is received by The Cities before the scheduled deadline set for submission of Bid Proposals.** Any Bid Proposals received after the scheduled deadline for submission of Bid Proposals will be returned to the Bidder unopened.

The Bid Proposal must be signed in the name of the Bidder and must bear the signature in long hand of the person or persons duly authorized to sign the Bid Proposal. Changes in or additions to the Bid Proposal forms, recapitulations of the Work bid upon, alternative Bid Proposals not requested by The Cities, or any other modifications of the Bid Proposal which are not specifically called for in the Bid Documents, the Contract Documents, or an Addendum may be rejected by The Cities as not being responsive to the solicitation.

Bid Proposals shall be made in the name of the principal, and if a co-partnership, the names of all partners shall be given. Exact postal address shall be given in all cases. If Bid Proposals are submitted by an agent, satisfactory evidence of agency authority must accompany the Bid Proposal. Corporate Bidders, to be eligible to enter into a Contract with The Cities, shall be qualified to do business in the State of Colorado and The Cities. Bidders shall comply with applicable licensing requirements. Foreign corporations which have not domesticated or otherwise become licensed in The Cities shall obtain a permit to do business in The Cities pursuant to The Cities requirements prior to submission of a Bid Proposal.

The Bid Proposal submitted must not contain erasures, corrections, or changes from the printed forms as completed in typewriter or ink, unless such erasures, corrections, or changes are authenticated by affixing in the margin immediately opposite the erasure, correction, or change, the initials of the person who signed the Bid Proposal or the initials of such other person as may be authorized by the Bidder to make erasures, corrections, or changes in the Bid Proposal, and such authorization must be evidenced by written confirmation, executed by the person authorized to sign the initial Bid Proposal, attached to the Bid Proposal at the time of submittal.

Bid Proposals may be considered non-conforming and may be rejected for any of the following reasons, unless otherwise provided by law:

1. If the Bid Proposal form(s) furnished to the Bidder by The Cities is not used or is altered;
2. If there are unauthorized additions or conditional Bid Proposals, or irregularities of any kind which may tend to make the Bid Proposal incomplete, indefinite, or ambiguous as to its meaning;
3. If the Bidder adds any provisions reserving the right to accept or reject any Contract award or to enter into a Contract pursuant to an award;
4. If the Unit Prices or Lump Sum Prices contained in the Bid Proposal are unbalanced either above or below reasonable cost analysis values as determined by The Cities;

5. If the Bid Proposal Pay Item price for Mobilization exceeds ten percent (10%) of the total Contract Price;
6. If the Bidder fails to insert a Price for every Bid Proposal Pay Item indicated;
or;
7. If the Bidder fails to complete the Bid Proposal in any other particulars where information is requested so Bidder's Proposal may be properly evaluated.

The Cities reserve the right to reject any or all Bid Proposals and to waive irregularities or informalities as may be deemed in The Cities best interest.

The Cities reserve the right to reject any Bid Proposal if investigation of such Bidder fails to satisfy The Cities that such Bidder is properly qualified to carry out the obligations and to complete the Work contemplated by the Contract Documents. Any or all Bid Proposals will be rejected if there is reason to believe that collusion exists among Bidders.

The Cities reserves the right to prequalify Bidders, to post-qualify Bidders, to reject all Bid Proposals, not to make an award, and/or to accept the Bid Proposal deemed most advantageous and in the best interest of The Cities. The Bidder must comply with all information and instructions for Bidders. The award of the Contract, if made by The Cities, will be made by written Notice of Award to a qualified, responsible, responsive, and trustworthy Bidder submitting the lowest and best Bid Proposal, but The Cities shall determine in their sole discretion whether a Bidder is responsible, responsive, qualified, and trustworthy to perform the Contract, whether by prequalification, post-qualification, or other methods, and which Bid Proposal is the lowest and best and whether it is in the best interest of The Cities to accept the Bid Proposal. The Cities reserve the right to request financial statements, together with a Bidder's Post Qualification Form which includes a statement of past experience, personnel resumes, Construction Equipment available to perform the Work, the Bidder's proposed Schedule of Work, and other qualification information, from any Bidder considered for award of a Contract. Failure or refusal to furnish such qualification information, or failure to provide a satisfactory statement of financial responsibility, shall constitute a basis for disqualifying any Bidder. In evaluating whether the Bidder is responsible, The Cities, in their sole discretion, may consider such things as whether the Bidder is in arrears to The Cities under any obligation; has an unacceptable performance or claims history with The Cities or with other owners; is not trustworthy; has submitted false information in the past, or is currently involved in a dispute with The Cities. The Cities also reserve the right to require evidence of satisfactory operation of any Construction Equipment required to be used to perform the Work. The Cities will consider the Bid Proposals and reserves the right to reject any or all Bid Proposals, to pass upon the regularity, or waive any irregularity or informality, of the Bidders and the acceptability of the Surety offered.

Prior to bidding, requests to substitute Materials or Equipment from those specified shall be made in writing and shall identify the Material or Equipment, or the fabrication or installation method to be replaced, in each request and shall include related Specification sections and Drawing numbers. The Bidder shall provide complete documentation

showing compliance with the requirements for substitutions, and the following information, as appropriate:

1. Product Data, including Drawings and descriptions of products, fabrication and installation procedures;
2. Samples, where applicable or requested;
3. A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include elements such as size, weight, durability, performance, and visual effect;
4. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by The Cities and separate contractors, which will become necessary to accommodate the proposed substitution;
5. Any additional information The Cities may request.

All requests for substitution shall be submitted in writing to the Contract Administrator, and all such requests shall be received by The Cities no later than 5:00 p.m. on the tenth (10th) Calendar Day prior to the Bid Proposal submittal date. If any additional Material or Equipment is approved, the information will be published in an Addendum prior to the Bid Proposal submittal date. All Bid Proposals shall be based only on approved or specified Materials and Equipment. The Cities are not obligated to approve substitutions, either before Bid Proposal submission or after Notice of Award, regardless of whether Material, Equipment, or process is considered equivalent.

The successful Bidder, upon award of a Contract, shall commence Work on the date specified in the Notice to Proceed and shall diligently prosecute the Work and shall substantially complete all Work within the Contract Time. Should the Contractor fail to substantially complete all Work in the allotted time period, Liquidated Damages may be assessed.

At the Pre-Construction Meeting or within fourteen (14) Calendar Days after Notice of Award, whichever occurs sooner, the successful Bidder shall submit to The Cities a preliminary schedule showing the order in which the Bidder proposes to carry out the Work to successfully construct all of the Work within the Contract Time. This schedule shall be in addition to any other schedule requirements contained in the Contract Documents. Such preliminary schedule shall show the dates on which the Bidder will start and complete the several parts of the Work and the order of construction and delivery dates of critical Materials and Equipment. The preliminary schedule shall be subject to acceptance by The Cities. The schedule shall be binding on the Bidder and shall be adhered to by the Bidder unless, for good cause shown, a modification of Schedule shall be requested in writing to The Cities and approved by The Cities in accordance with the General Conditions of the Contract.

PROCEDURE FOR CONTRACT SIGNING

1. Signed Notice of Award - One (1) Original of NOA retained by Contract Administration
One (1) Copy of Executed NOA sent to Contractor
2. After award, Contract Administrator sends five (5) copies of Contract (bound in Project Manual) to Contractor.
 - A. Contractor signs, and attests if applicable, all five (5) copies and returns all five (5) copies of Contract (bound in Project Manual) to The Cities Contract Administrator.
 - B. The Contractor's representative signing the Contract shall be authorized to bind the company in a contract with The Cities.
 - C. If Contractor is a corporation, Contracts must be attested and attestation witness must be an officer of the corporation of at least a Secretary rank (not a notary). If Contractor is not a corporation, attestation is not required.
 - D. Print title of the Contract signer, and the attestation witness if applicable, in the spaces provided.
 - E. Do not date the Contract. The last Cities signatory will date the Contract.
3. Include the following when returning executed Contracts to The Cities:
 - A. Five (5) copies of executed Performance Bond and Labor and Material Payment Bond, along with applicable Powers of Attorney, in one hundred percent (100%) of the Contract Price from a bonding company listed in the government approved list of bonding companies (Circular 570). Original signature, with witness signature or attestation if corporation, are required for all five (5) copies. Submit an executed Power of Attorney for each set of bonds.
 - B. Five (5) copies of the Certificate(s) of Insurance, the Additional Insured Endorsements, and ACORD Form 101 if required, showing all required insurance coverages and limits.

If the Acord Certificate is used, we must have a signed (not stamped) certificate.

The Cities, its officers, employees, and agents are to be named as Additional Insureds. This language is to appear on the face of the certificate. Additional Insured Endorsements, indicating completed operations coverage where applicable, must also be submitted.

- C. W-9 Taxpayer ID Form.
 - D. Five (5) copies of the completed Affidavit if Contractor is a sole proprietor or individual. Contractor must appear before the Support Services staff at Thornton City Hall for identification verification and to allow a copy of the identification to be made for Thornton's file.
4. Return the Certificates of Insurance, Additional Insured Endorsements, ACORD Form 101 if required, Bond Forms with Power of Attorney, W-9 Taxpayer ID Form, the Affidavit if applicable, and signed (and attested if applicable) Contracts to the Contract Administrator within ten (10) Calendar Days from date of Notice of Award, unless noted otherwise in the Contract Documents.
 5. Thornton Contract Administrator will bind the Certificate(s) of Insurance, Additional Insured Endorsements, ACORD Form 101 if applicable, executed Performance and Payment Bonds, and applicable Powers of Attorney, into the Project Manuals with the signed (and attested if applicable) Contracts and will route the Project Manuals for Westminster and Thornton signatures. **The last Cities signatory will date the Contract on the first page.** Two (2) fully executed originals will be returned to the Contractor, one (1) for the Contractor's file and one (1) for the Contractor's Surety.

CONTRACT

THIS CONTRACT, made and entered into this ____ day of _____, 20__ by and between the City of Thornton, CO, a Colorado home rule city (hereinafter called "Thornton"), and the City of Westminster, CO, a Colorado home rule city (hereinafter called "Westminster"), or jointly referred to as "The Cities" and Signature Underwriters, Inc. (hereinafter called the "Contractor"), or jointly known as the "Parties".

WITNESSETH:

That for and in consideration of the payments, covenants, and agreements stated herein, the Contractor and The Cities agree as follows:

1. The Contractor shall perform and complete in a Good and Workmanlike Manner all Work required in connection with the "**136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A**", all in strict accordance with the Contract Documents, including any and all Addenda prepared by The Cities Manager of Contract Administration, the Drawings and Specifications, and the Contractor's Bid Proposal.

2. Payments will be made to the Contractor by The Cities in accordance with and subject to the provisions embodied in the Contract Documents, or as prescribed by law.

3. Work under this Contract shall commence on the date specified in the written Notice to Proceed from The Cities to the Contractor. Upon receipt of the Notice to Proceed, the Contractor shall diligently and continuously perform and substantially complete all Work under this Contract within one hundred-sixty (160) Calendar Days (the "Contract Time"). The Contractor shall also meet all Milestone Dates or other interim performance dates specified in the Contract Documents.

4. This Contract consists of the following component parts, herein defined as the Contract Documents, all of which are as full a part of this Contract as if herein set out verbatim, or if not attached, as if attached hereto:

Invitation for Bid Proposals
Addenda
Special Conditions
Specifications
Drawings
Labor and Material Payment Bond
Notice of Award
Change Orders

Information for Bidders
Contract (This Instrument)
General Conditions
Bid Proposal Form
Appendices (if any)
Performance Bond
Notice to Proceed

The above-named documents are essential parts of this Contract, and a requirement occurring in one (1) is as binding as though occurring in all. They are intended to be complementary and to describe the Work. In case of discrepancy or conflict among the following documents, the order of precedence shall be as follows:

1. Change Orders
2. Addenda
3. Contract (This instrument)
4. Drawings
5. Special Conditions
6. Specifications
7. General Conditions
8. Information for Bidders
9. Appendices (if any)
10. Bid Proposal

The Contractor shall not take advantage of any apparent error or omission or conflict in the Drawings or Specifications. In the event the Contractor discovers an error or omission or conflict, it shall immediately notify The Cities. The Cities will then make such corrections and interpretations as may be necessary to fulfill the intent of the Drawings and Specifications.

5. It is agreed by the Parties to this Contract that this Contract shall be executed in quintuple, one (1) copy being retained by the Contractor, one (1) copy for the Contractor's Surety, one (1) copy for the City of Westminster, and two (2) copies to be retained by The City of Thornton.

APPROVED AS TO LEGAL FORM:
Margaret A. Emerich, City Attorney

CITY OF THORNTON, COLORADO:

By: _____
Senior Assistant City Attorney

Maria Ostrom, Finance Director

ATTEST:

CITY OF THORNTON, COLORADO:

Nancy A. Vincent, City Clerk

Jerry D. Dye, Support Services Director

ATTEST: (FOR FIRM SIGNATURE) If corporation	SIGNATURE UNDERWRITERS, INC.
_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Title	_____ Title

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CITY OF WESTMINSTER

Phase No.1: 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs

By: _____
Printed Name: Donald M. Tripp
Title: City Manager

Attest: _____
City Clerk

(Seal)

Address for giving notice:

4800 West 92nd Avenue
Westminster, Colorado 80031

APPROVED AS TO LEGAL FORM:

City Attorney

I certify that either an appropriation has been made by the City Council or that sufficient funds have otherwise been made available for the payment of this Construction Contract.

City Manager

Account No. _____

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PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That Signature Underwriters, Inc., 2598 South Lewis Way, Unit 3B, Lakewood CO, 80224 as Principal (hereinafter called Contractor), and _____

(full name and address or legal title of Surety)

_____ as Surety (hereinafter called Surety), are held and firmly bound unto the City of Thornton, and City of Westminster as Obligee (hereinafter called The Cities), in the amount of _____

(a sum equal to at least the contract price)

dollars (\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has been awarded a Contract by Notice of Award dated December 7, 2015, by The Cities for the 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A in accordance with Drawings and Specifications prepared by Alfred Benesch & Company, 7979 E. Tufts Ave., Suite 800, Denver, CO 80237, which Contract will by reference be made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety hereby waives notice of any alteration of the Contract or extension of time made by The Cities.

Whenever Contractor shall be, and declared by The Cities to be in default under the Contract, The Cities having performed The Cities obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions; or
2. Obtain a Bid or Bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible Bidder, or, if The Cities elects, upon determination by The Cities and the Surety jointly of the lowest responsible Bidder, arrange for a Contract between such Bidder and The Cities, and make available as Work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price" as used in this paragraph, shall mean the total amount payable by The Cities to Contractor under the Contract and any Contract Change Orders thereto, less the amount properly

paid by The Cities to Contractor. Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than The Cities.

Signed and sealed this _____ day of _____, 20_____.

Witness

Principal

Title

Title

Witness

Surety

Title

Title

LABOR AND MATERIAL PAYMENT BOND

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE CITIES CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT.

KNOW ALL MEN BY THESE PRESENTS: That Signature Underwriters, Inc., 2598 South Lewis Way, Unit 3B, Lakewood CO, 80224, as Principal (hereinafter called Principal), and

(full name and address or legal title of Surety)

as Surety (hereinafter called Surety), are held and firmly bound unto the City of Thornton and City of Westminster as Obligee (hereinafter called The Cities), for the use and benefit of claimants as herein below defined, in the amount of

a sum equal to at least the contract price)

dollars (\$_____), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these present.

WHEREAS, Principal has been awarded a Contract by Notice of Award date December 7, 2015, by The Cities for the 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A in accordance with Drawings and Specifications prepared by 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A in accordance with Drawings and Specifications prepared by Alfred Benesch & Company, 7979 E. Tufts Ave., Suite 800, Denver, CO 80237, which Contract will by reference be made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void, otherwise it shall remain in full force and effect; subject however, to the following conditions:

1. A claimant is defined as one having a direct Contract with the Principal or with a Subcontractor of the Principal for labor, Material or both, used or reasonably required for use in the performance of the Contract, labor and Material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.
2. The above-named Principal and Surety hereby jointly and severally agree with The Cities that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) Calendar Days after the date on which the last of such claimant's Work or labor was done or performed, or Materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Cities shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, other than one having a direct Contract with the Principal, shall have given written notice to any two (2) of the following: the Principal, The Cities, or the Surety above named, within ninety (90) Calendar Days after such claimant did or performed the last of the Work or labor, or furnished the last of the Materials for which said claim is made, stating with substantial accuracy, the amount claimed and the name of the party to whom the Materials were furnished, or for whom the Work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, The Cities, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid Project is located, save that such service need not be made by a public officer.
 - b. After the expiration of six (6) months following the date on which Principal ceased Work on said Contract, it being understood; however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
 - c. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof is situated, or in the United States District Court for the District in which the Project, or any part thereof, is situated, and not elsewhere.
4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens or claims which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this _____ day of _____ 20____.

Witness

Principal

Title

Title

Witness

Surety

Title

Title

BID PROPOSAL

**To: City of Thornton
Attn: Contracts Manager
9500 Civic Center Drive
Thornton, CO 80229**

The undersigned Bidder, having examined the Specifications, Drawings, and all other documents contained in the Contract Documents, and having examined the Project site where the Work is to be performed, and having familiarized itself with all local conditions affecting the Work and having knowledge of the cost of Work, hereby proposes to execute and perform the Contract set forth in these Contract Documents, of which this Bid Proposal forms a part, and shall do the Work therein described in accordance with the terms and conditions therein set forth, and shall furnish all required labor, Materials, Equipment, tools, Construction Equipment, transportation and services for said Work, and shall pay all applicable fees, permits, taxes, and other incidental costs, all in strict conformity with the Contract Documents, for an amount computed upon the basis of the quantity of Work actually performed at the Bid Proposal prices provided below.

It is understood that any listed quantities of Work to be performed at Unit Prices, except those items specified to be paid at plan quantity, are approximate only and are intended principally to serve as a guide in evaluating Bid Proposals, and the Work will be paid by measuring actual quantities and multiplying the actual quantity by the agreed upon Unit Price. Listed quantities of Work specified to be paid at plan quantity are given as a convenience to assist the Bidder during the bid process and are approximate only, and both Bidder and The Cities agree that regardless of the actual final in place quantity the items of Work specified to be paid at plan quantities will not be measured for payment, and payment will be made based on the plan quantity specified multiplied by the agreed upon Unit Price.

It is further agreed that any quantities of Work to be performed and Material to be furnished at Unit Prices may be increased or decreased as may be considered necessary, in the opinion of The Cities, to complete the Work fully as planned and contemplated and that all quantities of Work or Materials, whether increased or decreased, are to be performed at the Unit Prices set forth in the Bid Proposal, except as provided for in the General Conditions.

It is further agreed that any Lump Sum Prices may be increased to cover Changed or Extra Work ordered by The Cities, but not shown on the Drawings or required by the Specifications, in accordance with the provisions of the General Conditions. Similarly, they may be decreased to cover deletion of Work so ordered.

It is further agreed that any combination of Unit Prices and Lump Sum Prices contained in the Bid Proposal, as applicable, may be used by The Cities to price Changed or Extra Work regardless of the scope or quantity of the change, except as may be otherwise provided for in the General Conditions.

By submitting this Bid Proposal, the Bidder acknowledges its understanding that the Bid process is solely intended to serve the public interest, in achieving the highest quality of services and goods at the lowest price and that no right, interest, or expectation shall vest or inure to the benefit of a Bidder as a result of any reliance or participation in the process. In submitting this Bid Proposal, it is understood that the right is reserved by The Cities to reject any or all Bid Proposals and waive informalities or irregularities in Bid Proposals.

The undersigned further agrees, if awarded the Contract for the Work included in this Bid Proposal, to begin and to complete the Work contemplated in accordance with all the conditions set forth in the Contract Documents.

The undersigned has carefully checked the Unit Prices, Lump Sum Prices, and Extended Prices inserted by it and understands that they are the Bidder's sole responsibility and that The Cities will not be responsible for any errors or omissions on the part of the undersigned Bidder in preparing this Bid Proposal.

The undersigned certifies that this Bid Proposal is genuine, not collusive, or made in the interest or behalf of any person not named as provided in the Instruction to Bidders and that the undersigned has not, directly or indirectly, induced or solicited any other Bidder, or induced any other person, firm or corporation to refrain from submitting a Bid Proposal, and the undersigned has not in any manner sought by collusion to secure for itself an advantage over any other Bidder.

The undersigned has attached a certified check without endorsement or conditions, payable to the City of Thornton, in the sum of five percent (5%) of the Bid Proposal, drawn on a bank which is a member of Federal Reserve System or which is a member of the Federal Deposit Insurance Corporation, or attach a cashier's check for five percent (5%) of the total Bid Proposal amount, or attach a Bid Bond written by a surety company approved by The Cities and listed in the most recent Federal Register Circular 570 or having a current Best's rating of A or better for five percent (5%) of the total Bid Proposal amount.

It is expressly understood that the check or bond is given as security and as a guarantee that the Bidder will, if awarded the Contract, timely execute the Contract, furnish an acceptable Performance Bond and Labor and Material Payment Bond on the forms included in the Contract Documents if required, furnish the required insurance, and furnish the other documents required by the Contract. The undersigned expressly acknowledges that the amount thereof represents the agreed damages that The Cities will sustain if the Bidder fails or refuses to execute and deliver within five (5) Calendar Days from and including the date of the Notice of Award, the Contract, the required Performance Bond and Labor and Material Payment Bond, the required insurance, and the other documents required by the Contract, in which event said check or bond shall be immediately payable to and retained by The Cities.

The Bidder grants The Cities the right to hold the lowest three (3) Bid Proposals received, together with the accompanying Bid Proposal securities, for a period of ninety (90)

Calendar Days after the date of submission of the Bid Proposals and to delay Notice of Award until the end of such time period.

The undersigned Bidder further grants The Cities the right to award this Contract on the basis of any possible combinations of base Bid Proposal and add or deduct alternate(s), if any that best suits The Cities needs.

The undersigned Bidder further agrees to furnish to The Cities all such information and data deemed by The Cities to be necessary to determine the ability of Bidder to perform the Work, and within two (2) Business Days of Bid Proposal submission, shall provide The Cities a completed Reference Authorization and Release Form, a copy of which is included herein.

The undersigned Bidder further agrees to comply with Colorado's statutes. Pursuant to Colorado Law, if Bidder's form of business is a sole proprietor or individual, Bidder hereby agrees that upon receipt of Notice of Award, Bidder will complete and file with The Cities a sworn Affidavit, the form of which will be provided by The Cities, affirming that Bidder is lawfully present in the United States and to provide acceptable identification as described in the Affidavit. Furthermore, if Bidder's Work involves provision of a service and not provision of a specific end product, Bidder, upon being awarded the Work, hereby certifies the following:

1. Bidder, as of the date of Notice of Award, shall not knowingly employ or contract with an illegal alien who will perform Work under this Contract.
2. Bidder shall participate in either the E-Verify Program created in Public Law 104-208, as amended and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program, or the Department Program, which is the employment verification program established by the Colorado Department of Labor and Employment (the "Department") pursuant to Section 8-17.5-102 (5), C.R.S.
3. Bidder has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under the Contract through participation in either the E-Verify Program or the Department Program.
4. Bidder shall not enter into a contract with a Subcontractor that fails to certify to Bidder that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform Work under this Contract.
5. Bidder shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.
6. If Bidder obtains actual knowledge that a Subcontractor performing Work under this Contract employs or contracts with an illegal alien, Bidder shall:

- a. Notify the Subcontractor and The Cities within three (3) Calendar Days that Bidder 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 (3) Calendar Days of receiving the notice required pursuant to this subparagraph, the Subcontractor does not stop employing or contracting with the illegal alien; except that Bidder shall not terminate the subcontract with the Subcontractor if during such three (3) Calendar Days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.
- 7. Bidder shall comply with any reasonable request by the Department made in the course of an investigation that the Department is undertaking pursuant to the authority established by Colorado Law.
 - 8. If Bidder violates any provision of this certification, The Cities may terminate this Contract for cause. If this Contract is terminated for cause, notwithstanding any provision to the contrary, Bidder shall be liable for actual and consequential damages suffered by The Cities.

The Bidder's attention is directed to the fact that all applicable state and federal laws, county and city ordinances, licenses and regulations of all authorities having jurisdiction over the Project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full.

The undersigned Bidder acknowledges that the City of Thornton Charter Section 7.4 prohibits Thornton from making Contracts with firms which employ certain relatives of Thornton employees unless the City Council determines that the making of such a Contract is in Thornton best interest. For the purposes of this Charter Section, relative shall include domestic partners. The undersigned Bidder attests to the following:

No City Council Member, member of a board or commission, Municipal Judge, City Manager, City Attorney, Utilities Attorney, Utilities Director, or employee of the City of Thornton or any such person's family member, domestic partner, or person assuming a relationship being the substantial equivalent of the above, has an existing or pending, direct or indirect, financial, pecuniary or personal interest in the Bidder or with this Invitation for Bid Proposals, except as follows (list, if none state "None"): None

The undersigned Bidder acknowledges the following Addenda (if none, so state):

Addendum No.	Dated	Initial
None		

The undersigned Bidder expressly agrees to the following provisions:

- A. That the Bid Proposal stated shall include the utilization of the Subcontractor(s) and Supplier(s) listed in the List of Subcontractors/Suppliers below.
- B. That the Subcontractor(s) and Supplier(s) listed below shall not be changed by the Bidder unless the Subcontractor(s) or Supplier(s) are unable to perform due to bankruptcy, labor strikes, or termination of business by the Subcontractor(s) or Supplier(s).
- C. That any Subcontractor(s) and Supplier(s) shall be subject to The Cities approval.

List below any Subcontractor(s) and Supplier(s) whose contract(s) exceeds ten thousand dollars (\$10,000).

	SUBCONTRACTOR/SUPPLIER	TYPE OF WORK
1.	Rocky Mountain Signing	Traffic Control
2.	TNEMEC Company	Paint Supplier
3.	Mountain Man	Weld/Fabricator TBD
4.	Quality Lining & Painting	Painter
5.		
6.		
7.		
8.		
9.		

- 10. _____
- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____

Attach additional sheet if more space is needed.

SCHEDULE OF CONTRACT PAY ITEMS AND PRICES

Phase No.1 BASE BID: 144th Avenue Bridge Railing Corrosion Repairs

Phase No.1 Base Bid

Item	Description	Unit	Estimate Quantity	Unit Price	Total Bid
Main Overpass Fence					
1	Mobilization	LS	1	\$ 12,760.00	\$ 12,760.00
2	Traffic Control, Local Roads	LS	1	\$ 21,380.00	\$ 21,380.00
3	Traffic Control, I-25 CDOT (Removal and Installation of Fence Panels)	LS	1	\$ 72,900.00	\$ 72,900.00
4	Remove and Shop Clean and, Apply Caulking/Joint filler, and Paint Picket/Rail Sections with a three (3) Coat Paint System and Replace Clean Panels	EA	70	\$ 6,244.00	\$ 437,080.00
5	Field Clean, Apply Caulking/Joint filler, and Paint Fence Post	LS	1	\$ 44,890.00	\$ 44,890.00
6	Install Temporary Fencing between Post	LS	1	\$ 9,500.00	\$ 9,500.00
7	Remove and Shop Clean Guardrails and Supports, Apply three (3) Coat Paint System and replace Clean Guardrail and Supports	LS	1	\$ 31,872.00	\$ 31,872.00
8	Remove Rub Rail and Patch Holes in Posts	LS	1	\$ 11,500.00	\$ 11,500.00
SUBTOTAL Phase No.1 Base Bid					\$ 641,882.00

Phase No.1 Base Bid – Option No.1

Item	Description	Unit	Estimate Quantity	Unit Price	Total Bid
1	Shop Weld Side Pickets of Rail Sections	LS	1	\$ 68,290.00	\$ 68,290.00
SUBTOTAL Phase No.1 - Option No.1					\$ 68,290.00

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SCHEDULE OF CONTRACT PAY ITEMS AND PRICES CONT.

Phase No.2, Base Bid: 136th Avenue Bridge Railing Painting

Phase No.2 Base Bid

Main Overpass Fence					
1.	Mobilization	LS	1	\$ 12,771.00	\$ 12,771.00
2.	Traffic Control, Local Roads	LS	1	\$ 24,858.00	\$ 24,858.00
3.	Traffic Control, I-25 CDOT	LS	1	\$ 84,943.00	\$84,943.00
4.	Field clean Post and Railing Sections, Apply Caulking/Joint filler, and Paint Railings Sections and Post with a Three (3) coat paint system.	LS	1	\$ 492,015.00	\$ 492,015.00
5.	Field Clean Guardrail and supports, Apply a Three (3) coat paint System.	LS	1	\$ 35,480.00	\$ 35,480.00
SUBTOTAL Phase No.2, Base Bid					\$ 650,067.00

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SCHEDULE OF CONTRACT PAY ITEMS AND PRICES CONT.

SUBTOTAL Phase No.1 BASE BID:

Six Hundred Forty One Thousand Eight Hundred Eighty Two dollars
(Words)
Zero cents
(Words)
\$ 641,882.00
(Numerals)

SUBTOTAL Phase No.1, Option No.1 BID:

Sixty Eight Thousand Two Hundred Ninety dollars
(Words)
Zero cents
(Words)
\$ 68,290.00
(Numerals)

SUBTOTAL Phase No.2- BASE BID:

Six Hundred Fifty Thousand Sixty Seven dollars
(Words)
Zero cents
(Words)
\$ 650,067.00
(Numerals)

TOTAL CONTRACT PRICE:

One Million Three Hundred Sixty Thousand Two Hundred Thirty Nine dollars
(Words)
Zero cents
(Words)
\$ 1,360,239.00
(Numerals)

Indicate if you are claiming eligibility for Local Vendor Consideration by checking below, and if so, supply the required documentation.

- Yes, Bidder claims eligibility for Local Vendor Consideration.
- No, Bidder does not claim eligibility for Local Vendor Consideration.

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SCHEDULE OF CONTRACT PAY ITEMS AND PRICES CONT.

Dated this 2ND day of DECEMBER, 2015.

Firm Name: SIGNATURE UNDERWRITERS, INC

By: James R. Miskew

Title: PRESIDENT

Bidder's Legal Status: RESIDENT CORP,

State of Organization: COLORADO

Firm's Address: 2598 S, LEWIS WAY, 3B

LAKEWOOD, CO, 80229

Telephone: 303-468-1322

Fax: 770-283-2025

E-mail: JIM@MISKEW/SURETY.COM

Witness: (Attest and Seal if Bid Proposal is by Corporation)

[Signature]

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SPECIAL CONDITIONS

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1. ACCESS BY PRIVATE PROPERTY OWNERS

Contractor shall insure that property owners' access from the street to their property is not restricted except during limited times during Contractor's normal working hours. When access to a private property cannot be continuously maintained during normal working hours, the Contractor must personally provide written and verbal notice to the affected property owners a minimum of twenty-four (24) hours in advance of the closure. Emergency vehicle access shall not be blocked at any time for any reason.

2. ACCESS TO PUBLIC FACILITIES

The Contractor shall assure that safe access to public facilities including, but not limited to, parking lots, picnic shelters, playgrounds, and pedestrian ways, is provided. Any disruption to the public's normal use of such facilities shall not occur without the express written permission of The Cities.

3. APPROPRIATIONS

Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the amount of money appropriated by The Cities for this Contract is equal to or in excess of the original Contract Price. No Change Order or other form of order or directive by The Cities requiring additional compensable Work to be performed, which Work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract, shall be issued unless the Contractor is given written assurance by The Cities that lawful appropriations to cover the cost of the additional Work has been made or unless such Work is covered under the remedy-granting provision of this Contract.

In the event that The Cities City Councils reduces the appropriation or fails to appropriate additional funds should they be needed for the continuation of this Contract, The Cities may, upon prior written notice as provided for herein, terminate this Contract without penalty and thereupon be released of further obligations pursuant thereto.

4. CLEANUP

The Contractor shall make every effort to contain its operations to the smallest area possible. All areas which have been disturbed shall be returned to their original grade and condition, or better. Contractor shall clean all streets and sidewalks affected by its construction in accordance with The Cities Standards and Specifications for the Design and Construction of Public Improvements, Latest Edition. Contractor shall have Construction Equipment available on the Project site, including sweepers, hoses and other items, as necessary, to clean up at least on a daily basis during construction, or as required or otherwise directed by The Cities.

5. CONTRACT SIGNATURE

The Contractor shall return all signed Contracts with W-9 Forms, all appropriate Bonds, Insurance Certificates, and Additional Insured Endorsements **within ten (10) Calendar Days of receipt of Notice of Award.**

6. CONTRACTOR'S DAILY SITE REPORTS

The Contractor shall submit a Daily Site Report to The Cities by 8:00 a.m. each Work day for the previous Work day. If the Contractor fails to comply with this requirement, The Cities may reject any pending Applications for Payment until the Contractor submits all reports that are due. The report shall, at a minimum, describe:

- A. Type(s), location(s), quantity(s), and progress of Work performed consistent with the Schedule of Contract Items and Prices as defined by the Contract Documents;
- B. On-site labor for craftsman by craft, Subcontractor, supervision, and office personnel, with activities performed, number of personnel and hours worked on each activity;
- C. Construction Equipment (number, type, and hours) utilized on-site and for which activities;
- D. Type(s) and quantity(s) of Material and Equipment incorporated into the Work;
- E. Unanticipated problems encountered;
- F. Climatic data (temperature, precipitation, wind) for morning and afternoon;
- G. Accidents;
- H. Damage to in-place Work;
- I. Materials or Equipment received at the Project site;
- J. Results of any testing;
- K. Any unforeseen conditions or any Work which Contractor believes may be eligible for additional compensation or extra time. If Contractor notes any Work which it believes may be eligible for additional compensation or extra time, Contractor shall obtain The Cities Representative's initials and date on the relevant section of the Daily Site Report prior to submission to The Cities and shall immediately follow the procedures described in the Contract under Changed or Extra Work, Claims for Extra Costs, and/or Requests for an

Extension of the Contract Time. The Cities Representative's initials on the Daily Site Report shall not constitute approval of any claim for extra cost or time, but shall merely indicate the date the Contractor knew or should have known of a potential claim; and

L. Other notable events.

7. CONTRACTOR'S SCHEDULE OF WORK

The Contractor shall submit for review by The Cities, within fourteen (14) Calendar Days from Notice of Award, its baseline Schedule of Work in graphic bar chart form ("Schedule of Work"). This Schedule of Work shall be the Contractor's working schedule and shall be used to plan, organize, and execute the Work, record and report the progress of the Work, and forecast remaining Work. The Contractor shall be responsible for assuring that all Subcontractor Work and acquisition and delivery of Materials and Equipment, as well as its own Work, are included in the Schedule of Work and that the Schedule of Work represents a coordinated plan of Work. The Schedule of Work shall be periodically updated as required herein.

The Schedule of Work shall clearly show all intermediate Milestone Dates, Substantial Completion of the Work, procurement, fabrication, and construction activities, activity descriptions and durations, activity start and finish dates, specified phasing and sequencing requirements, and the proposed sequence of activities required for the orderly performance and completion of all elements of the Work. The selection and number of activities shown on the Schedule of Work shall be subject to The Cities review and acceptance. Activity durations shall be in Calendar Days, and in general, shall not be less than one (1) Calendar Day nor exceed fourteen (14) Calendar Days. Seasonal weather conditions, holidays, long lead time procurements, and other contingencies shall be considered in the planning and scheduling of the Work. The Contractor, at its option, may provide a Critical Path Method (CPM) schedule. The Contractor's attention is called to the General Conditions section titled Extension of Contract Time, which requires a CPM schedule analysis to substantiate a Request for Extension of Contract Time, even if the Contractor does not provide a CPM schedule for all of the Work.

Acceptance of the Schedule of Work by The Cities shall be a Condition Precedent to the making of any progress payments to the Contractor. Acceptance of the Schedule of Work by The Cities; however, shall not relieve the Contractor of its sole responsibility for the accuracy or feasibility of the Schedule of Work, or of its sole responsibility to complete the Work in accordance with the Contract Documents, nor does such acceptance by The Cities warrant, acknowledge or admit the reasonableness of durations, sequence, or logic of the Schedule of Work.

The Schedule of Work shall be monitored on a weekly basis and up-dated on a bi-weekly basis to incorporate actual start and finish dates, to record actual progress achieved during the reporting period, and to provide a more accurate schedule of

the next period's Work. A copy of the then current up-dated Schedule of Work shall be submitted to The Cities with the Contractor's Application for Payment (as defined by Special Conditions - Measurement for Payment and General Conditions - Progress Payments). The then current Schedule of Work shall be accompanied by a written narrative, which shall address the status of major activities, the impact of Change Orders, the impact of delaying events, if any, activities that are behind schedule, and actions that are being taken to improve progress and attain compliance with the Contract Time for completion of the Work.

If at any time the Contractor's progress is determined by The Cities to be inadequate to meet Milestone Dates, achieve the Substantial Completion Date or otherwise comply with the Contract Documents, The Cities may notify the Contractor. Upon receipt of such notice, the Contractor shall immediately take all steps necessary to improve the progress of the Work so that it will meet the Milestone Dates and the Substantial Completion Date and otherwise comply with the Contract Documents. The Cities reserves the right to require the Contractor to prepare a well-defined recovery schedule in order to insure that Substantial Completion and/or any Milestone Dates are met.

If, within a reasonable period of time after notice is given as outlined above, The Cities determines that the Contractor has not sufficiently improved progress, The Cities may require the Contractor to, at the Contractor's expense and at no additional cost to The Cities, increase the Contractor's work force, work additional hours per day or days per week, increase the number of shifts per day, or increase the amount of Construction Equipment. Neither such notice by The Cities nor The Cities failure to issue such notice shall relieve the Contractor of its obligation to achieve the quality of Work and rate of progress required by the Contract Documents. The Contractor shall not be entitled to any additional compensation for acceleration or other costs it may incur.

8. COORDINATION WITH OTHER ENTITIES

The Contractor is advised that completion of this Contract may require coordination and cooperation with other trades, other contractors under separate contracts with The Cities involved in the Project or an adjacent project, or with other entities with an interest in the Project. Special efforts will be made by the Contractor not to interfere with or delay other trades or other contractors. The Contractor shall coordinate and cooperate with the following other contractors, trades, and entities at a minimum.

9. DUMP/DISPOSAL SITES

The Contractor shall be responsible for locating disposal and dump sites and making arrangements for disposal of all material removed from the Project site. This includes concrete, asphalt, unsuitable or unstable trench material, and any other trash, rubbish, or debris generated as a result of the construction of the Work. Asbestos or other hazardous materials will be disposed of in accordance

with any and all applicable laws and regulations. The Contractor shall promptly submit copies of the disposal manifests to The Cities to demonstrate proper disposal of all materials.

10. EMERGENCY PROTECTION

- A. After the Notice to Proceed has been issued and continuing through Initial Acceptance, the Contractor shall be solely responsible for protection and safety of the public and the Contractor's/Subcontractor's workers, twenty-four (24) hours a day, seven (7) days a week. Contractor shall also be solely responsible after Initial Acceptance when the Contractor is on the Project site performing any Warranty Work.
- B. Whenever, in the opinion of The Cities, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work, or of adjacent structures or property, and whenever, in the opinion of The Cities, an emergency has arisen and immediate action is considered necessary, then The Cities, with or without notice to the Contractor, may provide suitable protection by causing Work to be done and Materials and Equipment to be furnished and placed. The cost of such Work and Materials and Equipment shall be borne by the Contractor, and if not paid on presentation of the bills, such costs will be deducted from any amounts due or that become due the Contractor. The performance of such emergency Work shall not relieve the Contractor of responsibility for any damage which may occur.

11. FIELD INSPECTIONS AND QUALITY ASSURANCE TESTING SCHEDULING

Contractor must provide a minimum of two (2) Business Days' notice to The Cities and authorized Representative to schedule any required field inspections or tests. Failure to give two (2) Business Days' notice may result in a delay in the required inspection or testing. If two (2) Business Days' notice is not provided, the Contractor will not be entitled to a claim for additional Contract Time and will not be relieved of required acceptance inspections or tests of any finishing, Materials or Equipment.

12. INSURANCE

- A. The Contractor agrees to procure and maintain in force during the term of this Contract, at its own cost, the following coverages:
 - 1. Workers' Compensation Insurance as required by the Labor Code of the State of Colorado and Employer's Liability Insurance. Evidence of qualified self-insured status may be substituted.
 - 2. Commercial General Liability Insurance (**MINIMUM LIMITS**)
 - (a) Each Occurrence \$2,000,000.00

- (b) Products/Completed Operations Aggregate \$2,000,000.00
- (c) Personal and Advertising Injury \$2,000,000.00
- (d) General Aggregate \$5,000,000.00

The policy shall include coverage protecting against bodily injury, property damage, and personal injury claims arising from the exposures of (1) premises-operations; (2) products and completed operations including materials designed, furnished and/or modified in any way by Contractor; (3) independent subcontractors; (4) contractual liability risk covering the indemnity obligations set forth in this Contract; and (5) where applicable, liability resulting from explosion, collapse, or underground exposures.

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination or completion of the Contract. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of the Contract.

- 3. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000) for any one (1) occurrence. This insurance will insure against bodily injury and/or property damage arising out of the Contractor's operation, maintenance, use, loading or unloading of any auto including owned, non-owned, hired and employee autos.
- 4. Other insurance, with varying limits, which from time to time, may reasonably be required by the mutual agreement of The Cities and Contractor against other insurable hazards relating to the Work to be done, shall be provided.

B. Contractor shall procure and maintain the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to The Cities. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor. If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination or completion of the Contract. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of the Contract.

C. Contractor shall cause any Subcontractor to procure and maintain adequate levels of insurance coverage for Workers' Compensation,

Commercial General Liability, Automobile Liability, and other coverages Contractor may require. Contractor shall prepare a schedule of required coverages for each of its Subcontractors and shall submit such schedule to The Cities prior to any Subcontractor commencing any Work under the Contract. Such coverages for any Subcontractors shall be procured and maintained with forms and insurers acceptable to The Cities. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor.

- D. The Contractor shall name The Cities and Westminster, its officer, agents, and employees as additional insureds for completed operations with respect to the Commercial General Liability and Auto Liability coverages above. A Certificate of Insurance shall be completed and forwarded, along with the Additional Insured Endorsements, to The Cities by the Contractor's Insurance Agent(s) 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 Cities **prior to commencement of any Work under this Contract**. The initial completed Certificate(s) of Insurance and Additional Insured Endorsement(s) shall include the Contractor's e-mail address for future inquiries and updates, and shall be sent to:

City of Thornton
Max Math, Contract Administrator
9500 Civic Center Drive
Thornton, CO 80229-4326

Subsequent Certificates of Insurance indicating renewal of coverage(s) shall be sent to The Cities Risk Manager at certificatesofinsurance@cityofthornton.net no later than thirty (30) Calendar Days prior to the expiration date. Indicate "Renewal COI" and the Project Number in the e-mail subject line.

- E. Failure on the part of the Contractor or a Subcontractor to procure or maintain policies providing the required coverages, terms, conditions, and minimum limits shall constitute a material breach of Contract upon which The Cities may immediately terminate the Contract. At its discretion, The Cities may procure or renew any such policy or any extended reporting period and may pay any and all premiums in connection therewith, and all monies paid by The Cities shall be repaid by Contractor to The Cities upon demand, or The Cities may offset the cost of the premiums against any monies due or to become due to Contractor from The Cities. In addition to the foregoing, in the event any coverage required by the Contract expires or is cancelled during the term of the Contract, the Contractor shall be required, without further notice from The Cities, to suspend the Work at 12:00 a.m. on the date of insurance expiration or cancellation, and may not resume Work until the required insurance coverage is obtained and evidence of such coverage is submitted to and approved in writing by The

Cities. The Contractor shall not be entitled to any compensation therefor, including compensation for delay. The Contract Time shall continue to run during such suspension period and the Contractor shall remain fully responsible for any Liquidated Damages that are assessed as a result of late performance. During such suspension of Work the Contractor remains responsible for all safety and protection of persons and property under the Contract.

- F. The Cities reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Contractor agrees to execute any and all documents necessary to allow The Cities access to any and all insurance policies and endorsements pertaining to the Work.
- G. Every policy required above shall be primary insurance, and any insurance carried by The Cities, its agents, officers, or employees shall be excess and not contributory insurance to that provided by the Contractor. The Contractor shall be solely responsible for any deductible losses under the required policies and such deductible losses shall not be billed to The Cities.
- H. The Contractor shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to the Contract by reason of its failure to procure and maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.
- I. The Parties understand and agree that The Cities, its agents, officers, and employees, are relying on, and do 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, C.R.S. 24-10-101 et seq., as may be amended, or otherwise available to The Cities, its agents, officers, or employees.
- J. The Contractor shall provide Products and Completed Operations Liability Insurance and name The Cities and Westminster as an additional insured for a minimum of one (1) year after the date of Final Acceptance. The Contractor shall continue to provide evidence of such coverage by submission of a Certificate of Insurance to The Cities no later than thirty (30) Calendar Days prior to the scheduled expiration of such coverage. Additional Insured endorsements shall indicate applicable Products and Completed Operations coverage.
- K. All policies shall include a provision that the coverages afforded under the policies shall not be canceled, terminated, or materially changed prior to the natural termination date until at least thirty (30) Calendar Days prior written notice has been sent to The Cities. The Certificate(s) shall indicate the form used, if any, under which this provision is included.

13. LICENSES AND PERMITS

- A. The Contractor shall be required to obtain, at its expense, all appropriate licenses from The Cities and/or other governing jurisdictions before the start of construction.
- B. Unless otherwise specified or indicated, all permits necessary for construction of the Work, including federal, state, county, and local permits shall be obtained by and paid for by the Contractor.
- C. If required, the Contractor shall obtain a Building Permit and/or a Traffic Control Permit prior to commencing any construction. The Contractor shall obtain a Construction Permit prior to any construction.
- D. Building Permits are obtained from the Cities City Development Building Inspection Division located at 9500 Civic Center Drive, Thornton, CO 80229. Construction Permits are obtained from the Cities City Development Planning Division located at 9500 Civic Center Drive, Thornton, CO 80229. Traffic Control permits are obtained from the Cities Infrastructure Department Traffic Division, located at 12450 Washington Street, Thornton, CO 80241. There is no charge to the Contractor for these permits.

14. LIQUIDATED DAMAGES

- A. It is agreed that The Cities will suffer damages as a result of delays and expenses if the Work is not substantially complete within the Contract Time. Therefore, the Contractor shall pay to The Cities as Liquidated Damages, and not as a penalty, the amount of three hundred forty-three and 68/100 dollars (\$343.68) per Calendar Day for each day past the date(s) set forth in the Notice to Proceed or for each day the Contractor fails to achieve Substantial Completion of the Work, as required by the Contract.
- B. Upon determination that The Cities will be delayed in Substantial Completion as the result of delay(s) caused by Contractor, The Cities has the right to deduct from amounts due or that become due the Contractor the amount of Liquidated Damages as set forth above. Also see General Conditions - Liquidated Damages - Time an Essential Element.

15. LOCATION OF PROJECT

The Work is located in the City of Thornton, Colorado and City of Westminster, Colorado.

16. MEASUREMENT FOR PAYMENT

- A. The Cities shall determine all quantities, amounts of Work done, and percentages complete under the Contract. To assist The Cities in

determining quantities, the Contractor shall first measure and quantify all Work. At the time quantity measurements are made by the Contractor, The Cities Representative may be present to verify and agree to such measurements. If The Cities disagrees with Contractor's measurements, The Cities may, at its option, independently measure quantities and adjust payments in accordance with its measurements. The Contractor shall fully cooperate with The Cities in any such endeavor at no additional cost to The Cities.

From quantity figures agreed to by the Parties, it will be the Contractor's responsibility to prepare a monthly Application for Payment for the Work accomplished to date. If the Parties cannot agree on the quantities and the resulting amount of payment, The Cities may, but shall not be obligated to, prepare an Application for Payment on the Contractor's behalf.

Applications for Payment shall be submitted each month, or on another schedule as the Parties may agree upon, on the date designated by The Cities. Failure of the Contractor to timely submit a complete, correct, and certified Application for Payment (accompanied by an updated Schedule of Work) may cause a delay in payment.

By submitting the signed Application for Payment, the Contractor certifies that to the best of the Contractor's knowledge, information, and belief the Work covered by the Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor to its Subcontractors and suppliers for Work for which previous Certificates for Payment were issued and for which payments were received from The Cities, and that the current payment shown in the Application for Payment is now due.

- B. The Contractor shall, along with its monthly Application for Payment for Work completed, submit an estimate of the Work which will be completed during the following month.
- C. When items are specified to be paid for by the ton, the following system will be used:
 - 1. Duplicate tally tickets shall be prepared to accompany each truckload of Material delivered. The tickets shall bear at least the following information:
 - a. Truck number;
 - b. Quantity delivered in tons, cubic yards, or other measurement as applicable;
 - c. Driver's name and date;
 - d. Type of Material; and

- e. Location of delivery by street and stationing on each street.
- 2. It is the Contractor's responsibility to see that a ticket is given to The Cities authorized representative on the day the delivery occurs for each truckload of Material delivered. Pay quantities will be prepared and approved on the basis of such tally tickets.
- 3. When the Bid item stipulates quantities by weight, they shall be weighed on scales that are in accordance with the requirements of the State of Colorado for similar use. Certified weight bills shall be furnished by the Contractor to The Cities authorized representative at the time of each delivery.

17. MOBILIZATION

- A. The Pay Item price for mobilization shall also include any "startup" or incidental costs necessary to begin the Work, including any necessary Construction Equipment, offices, buildings, Materials or Equipment, personnel that are to be located at the Project site in preparation for the Work, Bonds, Insurance, permits, and any other incidental expenses that cannot otherwise be attributed directly to the other Bid Proposal Pay Items.
- B. Payments for mobilization shall be made on a monthly basis in accordance with the following formula:

Contract Amount Completed	=	Mobilization Paid
5%	=	25%
10%	=	50%
25%	=	60%
50%	=	100%

- C. The overall Pay Item price for mobilization should not exceed ten percent (10%) of the original Contract Price. If the overall Pay Item price for mobilization exceeds ten percent (10%), and if The Cities do not reject the Bid, The Cities shall have the option of withholding payment of the amount exceeding ten percent (10%) of the Contract Price until the date of Final Payment.

18. PRODUCT SUBSTITUTIONS

- A. This section specifies administrative and procedural requirements for handling requests for substitutions made after Notice of Award. Requests for changes in products, materials, equipment, and methods of construction required by the Contract Documents proposed by the Contractor after Notice of Award are considered requests for "substitutions". The following are not considered substitutions:

1. Substitutions requested by Bidders as required by the Bid Documents and accepted by written addendum prior to submittal of a Bid Proposal are considered as included in the Contract Documents and are not subject to requirements specified in this section;
 2. Revisions to Contract Documents requested by The Cities;
 3. Specified options of products and construction methods included in the Contract Documents; and
 4. The Contractor's determination of and compliance with governing regulations and orders issued by authorities with jurisdiction over the Work.
- B. Substitution Request Submittal: Requests for substitution will be considered if received within ten (10) Calendar Days after commencement of the Work. Requests received more than ten (10) Calendar Days after commencement of the Work may be considered or rejected at the sole discretion of The Cities.

Contractor shall submit three (3) copies of each request for substitution to The Cities for consideration. Such requests shall be submitted in the form and in accordance with procedures required for Change Order Proposals.

Contractor shall identify the product or the fabrication or installation method to be replaced in each request and include related Specification sections and Drawing numbers. Contractor shall provide complete documentation showing compliance with the requirements for substitutions and the following information, as appropriate:

1. Product data, including Drawings and descriptions of products, fabrication, and installation procedures;
2. Samples, where applicable or requested;
3. A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include elements such as size, weight, durability, performance, and visual effect;
4. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by The Cities and separate contractors that will become necessary to accommodate the proposed substitution;

5. The substitution's effect on the Schedule of Work compared to the Schedule of Work without approval of the substitution. Indicate the effect of the proposed substitution on the overall Contract Time;
6. Cost information, including a proposal of the net change, if any, in the Contract Price; and/or
7. Certification by the Contractor that the substitution proposed is equal-to or better in every significant respect to that required by the Contract Documents and that it will perform adequately in the application indicated. Include the Contractor's waiver of rights to additional compensation or time that may subsequently become necessary because of the failure of the substitution to perform adequately.

The Cities Action: Within seven (7) Calendar Days of receipt of the request for substitution, The Cities shall request any additional information or documentation necessary for evaluation of the request. Within fourteen (14) Calendar Days of receipt of the request, or seven (7) Calendar Days of receipt of the additional information or documentation, whichever occurs later, The Cities will notify the Contractor of acceptance or rejection of the proposed substitution. If a decision on use of a proposed substitute cannot be made or obtained within the time allocated, the Contractor shall use the product specified. Acceptance will be in the form of a Change Order.

- C. Conditions: The Contractor's substitution request will be received and considered by The Cities when the following conditions are satisfied, as determined by The Cities; otherwise requests will be returned without action except to record noncompliance with these requirements:
1. Extensive or costly revisions to the Contract Documents are not required;
 2. Proposed changes are in keeping with the general intent of Contract Documents;
 3. The request is timely, fully documented and properly submitted;
 4. The request is directly related to a "similar products" clause or similar language in the Contract Documents;
 5. The specified product or method of construction cannot be provided within the Contract Time. The request will not be considered if the product or method cannot be provided as a result of the Contractor's failure to pursue the Work promptly or coordinate activities properly;

6. The specified product or method of construction cannot receive necessary approval by a governing authority, and the requested substitution can be approved; and
 7. A substantial advantage is offered The Cities, in terms of cost, time, energy conservation or other considerations of merit, after deducting offsetting responsibilities The Cities may be required to bear. Additional responsibilities for The Cities may include additional compensation to the Architect or Engineer for redesign and evaluation services, increased cost of other construction by The Cities or separate contractors, and similar considerations.
- D. The Contractor's submittal and The Cities acceptance of Shop Drawings, product data, or Samples that relate to construction activities not complying with the Contract Documents does not constitute an acceptable or valid request for substitution, nor does it constitute approval. Any deviations from the Drawings and Specifications shall clearly reference the approved substitution request and shall comply with all submittal requirements in the Contract Documents.

19. PROJECT MEETINGS

- A. Meetings shall be held between The Cities, Contractor, and other applicable entities at a standard time and place, established during the Preconstruction Meeting. Meetings are to be typically held on at least a weekly basis unless otherwise mutually agreed to by the Parties. The Cities shall require the attendance of Contractor's Superintendent and any other person(s) deemed necessary, including Subcontractors and or suppliers, at these meetings. The meetings shall be conducted by the Contractor for the following purposes:
1. Review the overall progress of the Work and the current status of the Schedule of Work;
 2. Identification and resolution of problems which are or may be impeding the planned progress of the Work;
 3. Coordination of the efforts of concerned Parties so that the Work progresses per the Schedule of Work; and
 4. Maintenance of lines of communication, including sound working relationships between The Cities and Contractor, and a mutual understanding of requirements of the Contract Documents.
- B. Contractor shall be responsible for the preparation and distribution of written minutes of these meetings to all attendees and other concerned or impacted

parties, as designated by The Cities. Contractor shall distribute meeting minutes within two (2) Business Days of the meeting. Within five (5) Calendar Days of receipt of the meeting minutes, The Cities shall review the content for completeness and accuracy, and note modifications and/or corrections. Contractor shall incorporate modifications and/or corrections into the meeting minutes as deemed appropriate by The Cities, and the revised meeting minutes will be re-distributed to all attendees by Contractor. If The Cities does not note any revisions to the meeting minutes during the five (5) Calendar Day period, then The Cities accepts the meeting minutes as an accurate and complete record of the meeting.

20. PROTECTION OF PUBLIC AND PRIVATE PROPERTY

- A. The Contractor shall make every effort to avoid damage to all public and private property, including, but not limited to, dikes, ditches, roadways, sidewalks, fences, trees, landscaping, structures, and utilities. The Cities assumes no responsibility whatsoever for any damage resulting from the Contractor's operations, whether such damage occurs on public or private property. The Contractor shall defend, indemnify, and hold harmless The Cities from all claims for damage resulting from its operations. Any and all damages due to a disruption of utility service attributed to the Contractor's operations shall be the sole responsibility of the Contractor.
- B. The Contractor shall contact any property owners verbally and in writing where additional access is needed to the Project site. Any damage to such property by the Contractor will be the responsibility of the Contractor. All claims must be settled before issuance of Final Payment.

21. QUALITY ASSURANCE INSPECTION AND TESTING

- A. Quality Assurance inspections and tests such as, but not limited to, fill control (compaction), asphalt density, rebar inspection, and concrete testing, shall be performed by a commercial testing laboratory of The Cities choosing and at The Cities expense. The Contractor may observe all such Quality Assurance inspections and tests.
- B. The Cities Quality Assurance inspections and tests are for The Cities benefit. The Cities Quality Assurance inspections and tests are not a substitute for the Contractor's Quality Control responsibilities or its testing and inspection program. The Contractor is solely responsible for performing and paying for all necessary Quality Control Tests.
- C. In the event a Quality Assurance inspection or test fails to meet the criteria established by the Specifications, another inspection or test will be performed after the necessary corrective Work has been completed by the Contractor. The Contractor shall bear the expense of all the re-inspections

and/or re-tests required. The Cities shall have the right to back charge the Contractor for re-inspections and re-tests and to deduct the cost of re-inspections and re-tests from payments due or that become due to the Contractor.

- D. Contractor shall perform excavation Work necessary for compaction testing, as requested by The Cities, at no additional cost to The Cities.

22. RECORDKEEPING AND AUDITS

- A. Contractor shall keep full and detailed records and accounts relating to its performance of the Contract as may be necessary for proper management of the Work. All financial information shall be maintained in accordance with generally accepted accounting principles. Contractor's records and accounts shall include, but not be limited to, all estimating and bid preparation documents (EPD); correspondence; internal office correspondence; internal memos; conversation memorandums; policies and procedures; subcontract files; Change Order files; backcharge logs and supporting documentation; scheduling files; job cost and man-hour records; invoices; delivery tickets; bills of sale; all documentation relating to disputes or claims; safety reports; accident reports; photographs; videos; accounting records; daily reports; and any other supporting evidence deemed necessary by The Cities to substantiate charges, expenses, or costs related to the Contract.
- B. Contractor's records and accounts shall be open to inspection and subject to audit and/or reproduction in any tangible form, including computer readable data by The Cities, to permit full and complete evaluation and verification of any:
 - 1. Requests or claims by Contractor, its Subcontractors, or its suppliers for any additional compensation related to the Contract;
 - 2. Contractor representations, warranties and/or guarantees under the Contract; or
 - 3. Legal action by Contractor, its Subcontractors, or its suppliers involving The Cities and related to the Contract.
- C. Such inspections and audits may require copying from time to time at reasonable times and places of any and all information, materials and data of every kind and character, including without limitation: records; books; papers; documents; subscriptions; recordings; agreements; Purchase Orders; leases; contracts; subcontracts; commitments; arrangements; notes; daily diaries; supervisory reports; drawings; sketches; receipts, vouchers; memoranda; and any and all other agreements, sources of information and matters that may in The Cities judgment have any bearing

on or pertain to any matters, rights, duties, or obligations under or covered by the Contract Documents. Such records subject to inspection and audit shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with the Contract or to a Claim for additional compensation or time.

- D. The Cities shall be afforded access to all of the Contractor's records and shall be allowed to interview any of the Contractor's employees (including contract labor), pursuant to the provisions of this section throughout the term of the Contract and for a period of three (3) years after Initial Acceptance of the Work, or longer if required by law.
- E. Contractor shall require all Subcontractors, sub-subcontractors and suppliers to comply with the provisions of this section by insertion of the requirements in its written agreements with those parties. Contractor shall cooperate fully and shall cause all related parties, including Contractor's Subcontractors entering into subcontracts, to cooperate fully in furnishing or in making available to The Cities from time to time whenever requested in an expeditious manner any and all such information, materials and data.
- F. The Cities shall have access to the Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space in order to conduct inspections and audits in compliance with this section.

23. SALVAGEABLE MATERIALS

Salvageable Material shall become the property of the Contractor. All such material shall be removed from the Project site in a reasonable time following salvage at the Contractor's cost. Its disposition shall be in accordance with all applicable federal, state, and local laws.

24. STAGING AREA

The Contractor is solely responsible for acquisition and payment of any staging area to be used during construction over and above any staging area(s) which may be shown on the Drawings. This area shall be secure to prevent loss of Materials and Equipment. Any replacement of lost or damaged Materials and/or Equipment shall be the responsibility of the Contractor at no cost to The Cities.

25. STOCKPILING MATERIAL OR EQUIPMENT

The Contractor shall not stockpile Materials or Equipment in the public streets or ROW, except for that which is expected to be used that day unless permanent traffic control is allowed and the stockpile is approved in advance by The Cities. If Material is stockpiled for use that day, the Contractor shall utilize proper traffic

control and necessary barricades. At all times, the Contractor shall provide access to the individual residents/users adjacent to the Work, as well as necessary services they may require (e.g. mail service, trash collection, etc.).

26. SUBMITTALS, SHOP DRAWINGS, AND SAMPLES

The Cities representatives shall have ten (10) Calendar Days to review and approve or reject Shop Drawings and Samples, unless otherwise stated in the Specifications. Rejected items shall be resubmitted to The Cities and subsequent review by The Cities will be within ten (10) Calendar Days. See also General Conditions - Submittals, Shop Drawings, Samples, Service Parts Manuals, and Operator's Instructions.

27. TEMPORARY ACCESS AND SAFE TRAVEL MAINTENANCE

Once Work has commenced in a roadway or other area subject to vehicular traffic, including bicycles, the Contractor shall provide and maintain access and safe travel conditions by ramping or surfacing with suitable materials to insure safe travel at all times. If, in the opinion of The Cities, the products used and/or the maintenance methods provided are not capable of safely supporting the anticipated vehicular traffic, the Contractor shall either immediately remove the existing products and provide higher quality products, up to and including placement of temporary hot mix asphalt, increase the frequency of maintenance, or both, as may be directed by The Cities. The provision of products and their maintenance to assure access and safe travel at all times shall be considered incidental to the Work, with all costs to be borne by the Contractor. Failure to comply with this requirement may, at The Cities sole discretion, result in the Work or a portion of the Work being suspended until the situation is corrected. Contractor shall not be entitled to additional compensation or Time. Should the Contractor not perform any necessary patching and maintenance in a timely manner, The Cities may, at its option, have the Work performed by others and may deduct the cost from amounts due or that become due to the Contractor.

28. TRAFFIC CONTROL

A. Adequate traffic flow shall be maintained at all times, and all barricading and temporary signage for detours and traffic control must meet the standards as set forth in the most current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Colorado Department of Transportation and as adopted by the United States Department of Transportation Federal Highway Administration and requirements of The Cities Traffic Engineer. Traffic control may be paid as a separate Bid item. If traffic control is not a separate Bid item, then it is considered incidental to the Work and shall be included in the Contract Price. Public safety is the Contractor's sole responsibility.

- B. For all ROW requiring closure for any Work therein, appropriate permits shall be obtained. Prior to the start of construction, the Contractor shall provide The Cities Traffic Engineering Division with planned traffic control methods and procedures for the Work for review and acceptance by The Cities Traffic Engineer. In general, except for alleyways, one (1) lane of the roadway for each direction must be kept open at all times or, if this cannot be achieved, sufficient flagpersons must be provided to properly channel traffic at all times when there is only one (1) lane open.

29. WATER USE

All water used by the Contractor for testing, compaction, dust control or other uses related to construction of the Work shall be recorded by a meter furnished by The Cities, and the water shall be obtained from a location specified by The Cities which will be no more than five (5) miles from the Project site. A one thousand four hundred dollar (\$1,400) refundable deposit for meter use shall be paid by the Contractor. Water use shall be metered, but will be furnished by The Cities at no charge to the Contractor. The Contractor shall be responsible for paying a monthly water meter rental charge of forty dollars (\$40) per month. The meter is required to be returned to the Cities every six (6) months for maintenance and calibration. If there are any damages to the meter and or any missing parts, the cost of repair and or replacement of parts will be deducted from the Contractor's deposit.

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GENERAL CONDITIONS

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1. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE OF CLAIMS BY CONTRACTOR

- A. The acceptance of Final Payment by the Contractor shall operate as a release of all claims by the Contractor for all things done or furnished in connection with the Contract and for every act or omission or neglect of Thornton or others relating to, or arising out of the Contract, except for claims previously made in writing by the Contractor and rejected and/or remaining unsettled by Thornton at the time of Final Payment.
- B. No payment, final or otherwise, shall operate to release the Contractor, its Surety or its insurers from any obligations under the Contract or under the Performance Bond or Labor and Materials Payment Bond including, but not necessarily limited to, any one (1) or more of the following:
 - 1. Obligations arising from or relating to latent defects;
 - 2. Faulty Work or Material appearing after any payment;
 - 3. Failure of the Work to perform in accordance with the requirements of the Contract Documents;
 - 4. Unsettled claims of Thornton;
 - 5. Claims for non-payment of laborers, mechanics, materialmen or suppliers, or for Construction Equipment used or rented; and/or
 - 6. Claims under any maintenance requirements of the Contract Documents or any special guarantees or warranties provided for under the Contract Documents.

2. ACCESS AND DRAINAGE/FIRE HYDRANTS

The Contractor shall keep a sufficient clear area around all fire hydrants to permit their full and effective use in case of fire. The Contractor shall keep natural drainage and water courses unobstructed or provide other equal courses effectively placed.

3. ACCIDENT PREVENTION/EMERGENCY/AUTHORITY TO ACT

Precaution shall be exercised by the Contractor at all times for the protection of all persons, Work and property, and hazardous conditions shall be guarded against or eliminated. In an emergency affecting the safety of life or property, the Contractor shall be allowed to act in a diligent manner at its discretion, without special instruction or authorization from Thornton, to prevent such threatened loss or injury, and Contractor shall so act, without appeal, if so instructed or authorized. Contractor shall notify Thornton immediately thereafter. Any compensation claimed by the Contractor on account of emergency Work affecting the safety of life or property, other than the Contractor's Work or property, shall be determined

as provided under General Conditions - Claims for Extra Cost, subject to the approval of Thornton.

4. ASSIGNMENTS

The Contractor shall not assign the whole or any part of the Contract or any monies due or to become due thereunder without the written consent of Thornton and of the Surety on the Contractor's Bonds. A copy of the consent of the Surety, together with a copy of the assignment, shall be filed with Thornton. If the Contractor assigns all or any part of any monies due or to become due under the Contract, the instrument of assignment shall contain a clause to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor under the Contract shall be subject to prior claims and liens of all persons, firms, and corporations for services rendered; for the payment of all Materials and Equipment furnished; for payment of all Construction Equipment used or rented in the performance of the Work; and for the payment of any liens, claims, or amounts due federal, state, or local governments or any of their special enterprises.

5. AUTHORITY AND DUTIES OF THORNTON REPRESENTATIVE

- A. Thornton Representative is placed on the Project site to observe the Work and to keep Thornton informed as to the progress of the Work and the manner in which the Work is being done; to keep records; act as liaison between the Contractor and Thornton; to call to the attention of the Contractor any Defective Work or deviations from the Contract Documents; and to reject work. Failure of Thornton Representative to call to the attention of the Contractor any Defective Work or deviations from the Contract Documents shall not constitute acceptance of such Work by Thornton or relieve the Contractor of performing the Work in strict accordance with the Contract Documents.

- B. Work that has not been given Initial Acceptance by Thornton remains in the control of the Contractor until the entirety of the Work is complete. Because Thornton Representative cannot control how the Contractor performs the Work, the responsibility for safety and proper use shall be solely the Contractor's. Until the entirety of the Work is completed, the Contractor may do Work that changes or modifies Work previously done, and even though at any given time, a portion of Work might be well done and acceptable in quality, the responsibility for keeping it in that condition until all of the Work is complete, is the sole responsibility of the Contractor. For this reason, Thornton will not accept any portion of the Work until the entirety of the Work is complete and control of the Work is withdrawn from the Contractor by Initial Acceptance by Thornton.

- C. Because one (1) of Thornton Representative's primary interest is to see that the Work progresses expediently and in a Good and Workmanlike Manner, he or she may offer suggestions to the Contractor, which the Contractor may or may not accept, at its discretion. Such suggestions are never to be

considered as anything but suggestions and involve no assumption of responsibility, financial or otherwise, by either Thornton Representative or Thornton.

- D. Any assistance which Thornton Representative may give the Contractor will not be construed as the basis of any assumption of responsibility or liability in any manner, financial or otherwise, by Thornton Representative or Thornton.
- E. Thornton Representative is not and does not purport to be a safety engineer and is not engaged in that capacity by Thornton and shall have neither authority nor the responsibility to enforce safety laws, rules, regulations or procedures, nor shall he or she be responsible for the safety of persons on and about the Project site.
- F. The presence or absence of Thornton Representative's on any Project will be at the sole discretion of Thornton, and such presence or absence of Thornton Representative will not relieve the Contractor of its sole responsibility to obtain the construction results required by the Contract Documents.
- G. Thornton Representative shall not be authorized to approve or accept any portion of the Work or to issue instructions contrary to the Contract Documents. Such approvals, acceptance, or instructions, when given, must be in writing and signed by Thornton. Thornton Representative shall have authority to reject Defective Work; however, the failure of Thornton Representative to reject Defective Work or Work that deviates from the Contract Documents shall not constitute acceptance of such Work by Thornton.
- H. Nothing in this section shall in any way be construed so as to require or to place responsibility for the method, manner, scheduling, coordination, or supervision of the Work upon Thornton Representative or Thornton. Such responsibility rests solely with the Contractor.

6. AUTHORITY OF THORNTON

- A. Thornton, or its consulting Engineer, shall furnish engineering services during construction of the Work to the extent provided in the Contract Documents. Thornton or its consulting Engineer shall observe and review the Work during construction. Compliance with the Contract Documents shall be solely the Contractor's responsibility, notwithstanding such observation, or review. Thornton may suspend the Work when it appears such suspension may be necessary to accomplish the proper implementation of the intent of the Contract Documents.

- B. The authority to observe, review, or suspend the Work, or exercise such other authority as may be granted to Thornton by the Contract Documents, shall not be construed or interpreted to mean supervision of construction, which is the Contractor's sole responsibility, nor make Thornton responsible for providing a safe place for the performance of work by the Contractor, its employees, Subcontractors or suppliers, or for access, visits, use, work, travel or occupancy by any other person.
- C. Thornton shall have the authority to reject any, or all Work, Materials, and Equipment which does not conform to the Contract Documents and to decide technical questions which arise in the execution of the Work.
- D. Thornton shall make the final determination of the amount, quality, acceptability, and fitness of the several kinds of Work, including Materials and Equipment, which are to be paid for under the Contract and shall decide all questions which may arise in relation to such Work.
- E. Thornton decisions shall be final and conclusive, except as otherwise expressly provided. In case any question shall arise relative to the Contract Documents, the determination of Thornton shall be a Condition Precedent to Contractor's right to receive payment for work affected by such determination.
- F. Thornton shall decide the meaning and intent of any portion of the Contract Documents where it may be found obscure or to be in disagreement.

7. CERTIFICATES AND MANUFACTURER'S GUARANTEES/WARRANTIES

Four (4) copies of any manufacturer's guaranty/warranty or certificate for any type of Material or Equipment provided shall be submitted to Thornton as a condition precedent to granting Initial Acceptance of the Work.

8. CHANGED OR EXTRA WORK

- A. Thornton reserves the right, at any time during the progress of the Work, to make necessary alterations to, deviations from, additions to, or deletions from the Work, or to require the performance of Changed or Extra Work neither covered by the Drawings and Specifications nor included in the Contractor's Bid Proposal, but forming a part of the contracted Work.
- B. Minor changes in the Work are changes that do not involve an adjustment in the Contract Price and/or the Contract Time and do not materially and adversely affect the Work, including the design, quality, performance, and workmanship required by the Contract Documents. Thornton shall have the authority to order minor changes that do not involve extra cost or Contract Time and are not inconsistent with the design concept and purposes of the Work.

In the event the Contractor determines a minor change in the Work is desired, the Contractor shall promptly inform Thornton, in writing, of any such minor changes proposed to be made by the Contractor. Provided Thornton agrees in writing that such changes are minor, the Contractor may make minor changes in the Work consistent with the intent of the Contract Documents. The Contractor shall record all such changes on the Record Drawings maintained by the Contractor.

- C. The Contractor shall not proceed with any Changed or Extra Work without a written Change Order approved in writing by Thornton. Any Changed or Extra Work performed by Contractor without written approval from Thornton shall be done solely at the Contractor's risk, and the Contractor waives any claim for additional compensation and/or extension of Contract Time therefor.

- D. Changed or Extra Work shall in no way invalidate the Contract or the Contractor's Bonds, but any difference in cost shall be added to or deducted from the Contract Price, as the case may be. No anticipated profits shall be allowed on Work that is deleted. Adjustments, if any, in the Contract Price by reason of any such Changed or Extra Work shall be determined by one (1) of the following methods in the order as listed or, if appropriate as solely determined by Thornton, by a combination of the methods listed below. Adjustments, if any, in the Contract Time by reason of any such Changed or Extra Work shall be determined in accordance with General Conditions - Extension of Contract Time.
 - 1. Method A By applicable Unit Prices contained in the Contractor's Bid Proposal for the same or similar type or class of Work as determined by Thornton.

 - 2. Method B If applicable, Unit Prices were not included in the Contractor's Bid Proposal, then by a Unit Price proposal for the Changed or Extra Work from the Contractor that is accepted by Thornton.

 - 3. Method C If applicable, Unit Prices were not included in the Contractor's Bid Proposal and a Unit Price proposal is not practical or cannot be mutually agreed upon, then by a lump sum price proposal for the Changed or Extra Work from the Contractor that is accepted by Thornton.

 - 4. Method D If applicable, Unit Prices were not included in the Contractor's Bid Proposal, and if Thornton and the Contractor cannot mutually agree on pricing per Method B or C before Thornton requests the Contractor to begin Work on the Changed or Extra Work, then the Contractor shall be paid the "actual field cost", as defined in paragraph H below. Each Party

must notify the other Party in advance of utilizing Method D to allow each Party the opportunity to perform its due diligence during the performance of the Changed or Extra Work. Failure of the Contractor to notify Thornton in advance that it disagrees with the application of Methods A, B, or C shall bar the Contractor from unilaterally using Method D.

- E. Method A – Method A is applicable to price Changed or Extra Work when the following conditions are met:
1. When the same or similar type or class of work, as determined by Thornton, is contained in the Contractor's Bid Proposal as a Pay Item;
 2. When Unit Prices are provided in the Bid Proposal for the Pay Item; and
 3. When the actual final quantity, after adding in the Changed or Extra Work, is not less than seventy-five percent (75%) nor greater than one hundred twenty-five percent (125%) of the total estimated quantity for the applicable Pay Item.

If condition 1. and 2. are met, but the actual final quantity is less than seventy-five percent (75%) or greater than one hundred twenty-five percent (125%) of the total estimated quantity for the applicable Pay Item, and if a larger quantity variation was expected as expressly noted on the Bid Proposal Form by an asterisk (*), then Method A shall be used to price the Changed or Extra Work regardless of the final actual quantity installed.

If condition 1. and 2. are met, but the actual final quantity is less than seventy five percent (75%) or greater than one hundred twenty-five percent (125%) of the total estimated quantity for the applicable Pay Item, and if a larger quantity variation was not expected as expressly noted on the Bid Proposal form by an asterisk (*), then Method B or C shall be used to price the Changed or Extra Work; provided however, that the original estimated quantity shall be paid at the original Unit Price proposed for the particular Pay Item.

- F. Methods B and C – Under Methods B and C, the Contractor shall provide backup documentation showing an estimated itemized cost breakdown for labor (including labor man-hours), Materials and Equipment installed in the Work, Construction Equipment (including rental equipment) utilized in the performance of the Work, Subcontractor costs, incidental expenses, and overhead and profit not to exceed fifteen percent (15%) of the total Change Order price. Documentation shall be sufficient to enable Thornton to evaluate the Contractor's Unit Price or lump sum proposal.

- G. Method D - When any Changed or Extra Work is performed under Method D, the term "actual field cost" is hereby defined to be and shall include:
1. The actual payroll cost, including payroll taxes, of all workmen such as foremen, equipment operators, carpenters, electricians, mechanics, and laborers for the time actually engaged in performing the Changed or Extra Work. No other labor related costs will be allowed including, but not limited to, Contractor's management or supervisory personnel, home office personnel, employee benefits, employee bonuses, insurance, and any other incidental costs. An allowance for these indirect costs is covered in the Contractor's allowable markup on the actual field cost, as described below;
 2. The actual cost of all Materials and Equipment incorporated into the Changed or Extra Work;
 3. The cost of all Construction Equipment for the time actually employed or used in the performance of the Changed or Extra Work based on the Colorado State Department of Transportation's Equipment Schedule in force on the date of the Change Order Request;
 4. Transportation charges at cost necessarily incurred in connection with any Construction Equipment authorized by Thornton for use on such Changed or Extra Work, but which is not already on the Project site;
 5. The actual cost of all power, fuel, lubricants, water, and similar operating expenses as well as other expendable materials such as small tools;
 6. All incidental expenses incurred as a direct result of such Changed or Extra Work, including a prorata portion of premiums related to the Contractor's Bonds, and where the premiums therefore are based on payroll costs, on insurance required by the Contract;
 7. The actual cost of any subcontracted Work. In determining the amount payable to the Contractor for a Subcontractor's Work, the Contractor must either obtain a minimum of three (3) competitive firm fixed quotes for the subcontracted Work, or if using an existing Subcontractor, shall require the Subcontractor to submit documentation as required herein to determine the Subcontractor's actual field cost. If the Subcontractor's actual field cost is used to determine the Contractor's overall reimbursement for the Changed or Extra Work, the Subcontractor's markup on its cost of Work to cover its general management and supervisory personnel, home office personnel, employee benefits, employee bonuses, insurance, taxes other than payroll taxes, any other incidental costs, overhead

and profit, and all other elements of cost not embraced within the actual field cost as defined herein, shall not exceed fifteen percent (15%) of its actual field cost; and

8. The Contactor's markup on the actual field cost for self-performed work and the Contractor's markup on subcontracted work. The Contractor's markup on self-performed work may not exceed fifteen percent (15%) of the actual field cost for such work. This markup shall cover and be full compensation for the Contractor's general management and supervisory personnel, home office personnel, employee benefits, employee bonuses, insurance, taxes other than payroll taxes, any other incidental costs, overhead and profit, and all other elements of cost not embraced within the actual field cost as defined herein. The Contractor's markup on subcontracted Work shall not exceed five percent (5%) of the Subcontractor's cost whether determined by a competitive quote or by the Subcontractor's actual field cost plus its markup as defined herein, whichever is applicable. No "pyramiding" or additional percentage shall be authorized for the Contractor for any Changed or Extra Work performed by Subcontractors.

When any Changed or Extra Work is performed under Method D, Thornton shall direct the form in which the accounts of the actual field costs shall be kept by the Contractor. The Contractor must specify in writing the proposed method of doing the Work and the type and kind of Construction Equipment, if required, which shall be used in the performance of the Changed or Extra Work, and Thornton must agree in writing to the methodology before the Contractor may commence the Changed or Extra Work. The Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost when requested by Thornton and shall give Thornton access to accounts relating thereto.

- H. Should Thornton and the Contractor be unable to agree on the method for pricing Changed or Extra Work or on the total value of the Changed or Extra Work, Thornton may utilize any combination of Methods A, B, C, and D to develop a Change Order to facilitate the continuation of the Work and payment therefor without delay.
- I. Any Changed or Extra Work shall be considered a part of the Contract, subject to all of its terms, conditions, stipulations, review, warranties, and tests and may be performed without notice to the Surety. The Contractor and its Surety hereby agree to these provisions.
- J. It is the Contractor's and the Surety's joint responsibility to be aware of all Contract Change Orders and to ensure that the Contract value under the Labor and Material Payment Bond and the Performance Bond are modified as appropriate with each Change Order. In addition, the Surety shall ensure that the Contractor's bonding limit has not been exceeded by any Contract Change Order.

9. CLAIMS FOR EXTRA COST

- A. If it appears to the Contractor that Changed or Extra Work is required for which, in its opinion, it should receive additional compensation for extra costs, within ten (10) Calendar Days of when the Contractor knew or should have known of the condition giving rise to the Changed or Extra Work, the Contractor shall give written notice to Thornton Contract Administration Division making a Claim for Extra Cost and requesting a Change Order be authorized by Thornton for Changed or Extra Work. Contractor shall simultaneously provide a copy of said claim to Thornton Field Representative. Should a difference of opinion arise as to what does or does not constitute Changed or Extra Work, or concerning the extra cost incurred and the payment thereof, and if Thornton insists on immediate conformance, the Contractor shall proceed with the Work after presenting its written notice to Thornton. Performance by Contractor of the Work in question shall not in any way prejudice the Contractor's ability to receive compensation on a Claim for Extra Cost. Failure to submit timely notice to Thornton as provided for herein shall constitute a complete waiver by the Contractor of its claim for extra cost for Changed or Extra Work.
- B. Provided timely notice has been filed with Thornton, and provided Method A for pricing Changed or Extra Work does not apply and provided that Thornton and the Contractor have not agreed upon pricing per Methods B and C, the Contractor shall keep an accurate account of the "actual field cost", as provided for in Method D under the General Conditions - Changed or Extra Work. The Contractor shall thereby not waive any right it might have to compensation for a Claim for Extra Cost in connection with the Changed or Extra Work. Upon receipt of the Contractor's Claim for Extra Cost, Thornton will make a final determination as to whether or not Changed or Extra Work was involved and, if so, the amount due to the Contractor.
- C. Contractor shall provide to Thornton all supporting documents and receipts in support of its Claim for Extra Cost within thirty (30) Calendar Days after performing the Work for which extra cost is claimed. Thornton shall have the right to reject any Claim for Extra Cost if the foregoing procedure is not followed. Failure to submit accurate and complete supporting documentation within thirty (30) Calendar Days after performing the Work shall constitute a complete waiver of the claim by the Contractor.
- D. In giving verbal instructions, Thornton shall have the authority to make minor changes that do not involve extra cost or Contract Time and are not inconsistent with the design concept and purposes of the Work; but otherwise, except in an emergency endangering life or property, no Changed or Extra Work shall be performed unless pursuant to a Change Order approved by Thornton, and no Claim for Extra Cost shall be valid unless so approved, except as otherwise provided herein.

10. CLEANUP PRACTICES

- A. The Contractor shall maintain general cleanup practices to keep all ROW, streets, alleys, sidewalks, and other premises as free from material and debris as the character of the Work will permit, and upon completion of any part of the Work, shall as required and or as directed by Thornton, remove all surplus material, mud, rubbish, debris, or other objectionable items and leave ROW, streets, alleys, sidewalks and other premises in a safe, acceptable condition. Under no circumstances shall the Contractor allow any condition to exist which creates a nuisance, fire hazard or an environment injurious to health or safety, or an attraction for children, animals, etc., during or after construction.
- B. In the event the Contractor fails to comply with this section, after notice has been given by Thornton, Thornton shall have the right to proceed to clean up such material and debris, make repairs, and charge the cost of the cleanup to the Contractor and to deduct the cost from any monies due or that become due to the Contractor.

11. CONCEALED OR UNKNOWN CONDITIONS

- A. If conditions are encountered at the Project site which are (1) sub-surface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, Contractor shall give written notice to Thornton promptly before such conditions are disturbed and in no event later than two (2) Business Days after its first observance of the conditions.
- B. Thornton shall promptly investigate such conditions, and if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, shall provide an adjustment in the Contract Price, Contract Time, or both. If Thornton determines that the conditions at the Project site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, Thornton shall notify the Contractor in writing, stating the reasons. Any objection to Thornton determination must be made in writing by the Contractor, stating its reasons therefore, within ten (10) Calendar Days after Thornton has given notice of its decision.

12. CONSTRUCTION REVIEW/QUALITY ASSURANCE/QUALITY CONTROL TESTING

- A. During construction, the Work shall be subject to the review and observation of Thornton. The Contractor shall afford every reasonable facility and assistance to Thornton to make such review. If any Work is covered up without approval or consent of Thornton, it will be uncovered for examination by Thornton at the Contractor's expense.

- B. The fact that Thornton has a representative on the Project site shall not be taken as acceptance of the Work or any part of it. The Contractor shall notify Thornton upon completion of the entirety of the Work, and the Work shall be given final construction review by Thornton. Any Quality Control tests and Quality Control re-tests may be witnessed by Thornton or Thornton Representative. If all parts of the Work are acceptable and comply with the Contract Documents, Initial Acceptance shall be granted by Thornton. If parts of the Work are not acceptable and require additional work by the Contractor necessitating additional cost, such costs shall be paid for by the Contractor.

- C. Contractor shall furnish Quality Control tests and reports on Quality Control tests of all Materials and Equipment called for in the Contract Documents. The Quality Control testing laboratory must be approved by Thornton, and the Contractor shall pay the cost of the Quality Control tests and any Quality Control re-tests that may be required, including all transportation charges.

- D. Thornton shall arrange for and conduct Quality Assurance testing at its own cost.

- E. All Quality Control and Quality Assurance tests and re-tests, unless otherwise provided in the Specifications, shall be in accordance with the pertinent sections of the latest edition of the standards applicable to the material or devices to be tested. A partial list of the principal societies referred to and their abbreviations follows:
 - A.A.S.H.T.O. American Association of State Highway and Transportation Officials
 - A.C.I. American Concrete Institute
 - A.I.S.C. American Institute of Steel Construction
 - A.N.S.I. American National Standards Institute
 - A.S.T.M. American Society of Testing Materials
 - A.W.W.A. American Water Work Association
 - C.P.I. Clay Pipe Institute
 - C.S. Commercial Standards
 - F.S. Federal Specifications
 - N.E.C. National Electric Code
 - T.M.C.A. Tile and Marble Contractors of America

- F. All parts of the Work shall conform to the standards of construction in the Contract Documents and to the intent thereof, and if they do not conform, shall be made to do so by rebuilding or replacing or otherwise as instructed by Thornton at Contractor's expense.

- G. If after commencement of the Work Thornton determines that any Work requires special inspection, testing or approval not otherwise provided for in the Contract Documents, Thornton shall issue written authorization instructing the Contractor to order such special inspection, testing, or

approval, and the Contractor shall give timely notice of its readiness and of the date arranged so Thornton may observe such inspecting, testing, or approval. If such special inspection or testing reveals a failure of the Work to comply with the Contract Documents, or with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction over the Work, the Contractor shall bear all costs of such inspection and/or testing.

- H. Required certificates of inspection, Quality Control testing results, or approval shall be secured by the Contractor and promptly delivered to Thornton.

13. CONTRACT IN DEFAULT – GROUNDS FOR DEFAULT

Thornton may declare the Contract in default for any one (1) or more of the following reasons as determined by Thornton in its sole discretion:

- A. Failure to complete the Work within a Milestone Date or the Contract Time;
- B. Failure or refusal to comply with an instruction of Thornton within a reasonable time;
- C. Failure or refusal to remove rejected Materials or Equipment;
- D. Failure or refusal to perform any Work or to repair any Defective Work that deviates from the Contract Document requirements;
- E. Bankruptcy, insolvency, or the making of an assignment for the benefit of creditors;
- F. Failure to provide a qualified Superintendent or sufficient and competent workmen or Subcontractors to carry on the Work in a satisfactory and Good and Workmanlike Manner;
- G. Failure to prosecute the Work in accordance with the Schedule of Work;
- H. Failure to provide proper Materials and Equipment;
- I. Failure to comply with provisions of the Contract Documents as determined by Thornton;
- J. Disregard of laws, ordinances, rules or regulations, or any order of any public body having jurisdiction over the Work, or the violation of any construction or safety codes; and/or
- K. Multiple claims, frivolous claims, and or inflated claims.

14. CONTRACT IN DEFAULT – PROCEDURE FOR DECLARING IN DEFAULT

Thornton may declare the Contract in default by giving written notice to the Contractor and its Surety. The notice shall contain the reason or reasons for declaring the Contract in default and shall fix a day certain, not less than seven (7) Calendar Days after the date of the notice, when the Contract shall be declared in default, unless the Contractor or its Surety remedies the default to Thornton satisfaction or makes satisfactory arrangements with Thornton for its remedy prior to the day certain fixed in the notice. Thornton may, at its sole option, extend the day certain for declaring the Contract in default without prejudice to Thornton right to thereafter declare the Contract in default. If the Contractor or its Surety fails to remedy the default or make arrangements for its remedy prior to the date set for declaring the Contract in default, or any extension thereof, the Contract shall be declared in default.

15. CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS

- A. The Contractor shall provide and maintain, continually on the Project site during the performance of the Work, adequate and competent superintendence of all operations for and in connection with the Work. The Contractor shall either personally superintend its Work or shall cause it to be done by a capable Superintendent acceptable to Thornton. Such Superintendent shall be able to read, write, and speak English fluently and shall be authorized to receive instructions from Thornton. The Superintendent shall have the authority to see that the Work is carried out in accordance with the Contract Documents and in a first class, thorough and Good and Workmanlike Manner in every respect.
- B. Incompetent, disorderly, intemperate, or incorrigible employees and or Subcontractors shall be removed from the Project by the Contractor when notified by Thornton, and such person shall not again be permitted to return to the Project site without the written consent of Thornton.
- C. The Contractor agrees to defend, indemnify, and hold Thornton harmless from any and all loss or damages arising out of labor disputes within the Contractor's control that occur during the performance of the Contract.

16. CONTRACTOR'S RESPONSIBILITIES

The Contractor agrees that the following are Contractor's responsibility under the Contract Documents:

- A. Contractor shall supervise, inspect and direct the Work completely and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall promptly, as directed by Thornton, either correct all Defective Work, whether or not fabricated, installed or completed, or if the

Work has been rejected by Thornton, remove it from the Project site and replace it with Work that is not Defective. Contractor shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including, but not limited to, all costs of repair or replacement of the work of others).

- B. The Contractor shall comply with all federal, state, county, district, and municipal laws, ordinances, rules, regulations, building codes, and safety codes relating to or applicable to the Work and shall furnish certification of compliance at completion of the Work upon request of Thornton.
- C. The Contractor shall perform all Work and furnish all Materials, Equipment, Construction Equipment, labor, transportation, superintendence, Quality Control testing, facilities, services, means, methods, techniques, insurance, bonding, and utilities, except as otherwise specified in the Contract Documents, necessary or proper to perform and complete all Work required by and in accordance with the Contract Documents and pay for all applicable taxes, licenses, and permits incidental to performing the Work.
- D. The Contractor alone shall be solely responsible for:
 - 1. All construction means, methods, techniques, sequences, and coordination of all Work under the Contract Documents;
 - 2. All conditions at the Project site, including the safety of all persons and property;
 - 3. The supervision, direction, and control of all Work under the Contract; and
 - 4. All safety procedures and precautions necessary in connection with the Work.
- E. These responsibilities of the Contractor shall apply continuously and shall not be limited to normal working hours. Review of construction by Thornton or Thornton Representative shall not relieve the Contractor of such responsibilities.
- F. The Contractor shall furnish, erect, maintain, and remove all construction plant and all temporary works and facilities as may be required to perform the Work.
- G. The Contractor alone shall be fully responsible for the safety, efficiency, and adequacy of its Construction Equipment, Material and Equipment, facilities, and appliances, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

- H. Thornton will provide Contractor with reports, Drawings, Specifications, and such other data as may be available to Thornton and reasonably required by Contractor to perform the Work. No Project information shall be disclosed by Contractor to third parties without prior written consent of Thornton or pursuant to a lawful Court Order directing such disclosure. All documents provided by Thornton to Contractor shall be returned to Thornton at the end of the Project or upon Thornton request. Contractor is authorized by Thornton to retain copies of such documents at Contractor's expense.
- I. Regarding any electronic devices with data storage capability, including but not limited to computers and copiers, used by the Contractor in connection with the performance of Work, Contractor represents the following:
 - 1. Devices, such as copiers or fax machines, which are not intended to be a data storage device for purposes of performing the Work hereunder, shall have their data storage devices scrubbed each day, either manually or automatically, to delete any data related to Thornton Project.
 - 2. At the time an electronic device with data storage capacity is taken out of service, all such devices will be securely scrubbed of all data related to Thornton Project and all data storage drives will be physically destroyed prior to disposition of the device to insure no Thornton data could ever be retrieved from such device.

All data, drawings, designs, plans, reports, studies, schedules, computer programs (nonproprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed for this Project by Contractor are and shall be the sole and exclusive property of Thornton. Contractor hereby transfers any copyright, trademark, or other intellectual property rights to Thornton. However, any reuse of any documents by Thornton without prior written authorization by Contractor other than for the specific intended purpose of this Contract will be at Thornton risk. Prior to disposal of any Project documents, the Contractor shall provide Thornton with a ten (10) Calendar Day written notice that it has documents it intends to dispose of, during which time Thornton may take physical possession of such documents.

17. CONTRACTOR'S UNDERSTANDING

No verbal agreement or conversation with any officer, agent or employee of Thornton, either before or after the execution of the Contract, shall affect or modify any of the terms, conditions, or other obligations set forth in any of the Contract Documents. All Contract modifications must be in writing and be in the form of a Change Order.

18. CORRELATION OF DOCUMENTS

- A. The Drawings and Specifications are complementary and supplementary. Portions of the Work which can best be illustrated by the Drawings may not be included in the Specifications, and portions best described by the Specifications may not be depicted on the Drawings. All items necessary or incidental to completely construct or erect the Work specified shall be furnished, whether called for in the Specifications or shown on the Drawings.
- B. The order of precedence of the Contract Documents shall be as established in the Contract. Any discrepancies between the Contract Documents shall promptly be brought to Thornton attention for resolution.

19. DECISIONS OF THORNTON

Thornton, through its duly authorized representatives, shall within a reasonable time after appropriate notice, make decisions in writing on requests, disagreements, and claims between the Contractor and Thornton.

20. DEFINITIONS AND TERMS

When the Contract indicates that Work shall be "accepted, acceptable, approved, authorized, condemned, considered necessary, contemplated, deemed necessary, designated, determined, directed, disapproved, established, given, indicated, insufficient, interpreted, ordered, permitted, rejected, required, reserved, satisfactory, specified, sufficient, suitable, suspended, unacceptable or unsatisfactory", it shall be understood that these expressions are followed by the words "by Thornton".

Wherever the following abbreviations, terms, or pronouns are used in any of the Contract Documents, the intent and meaning shall be interpreted as follows:

ABBREVIATIONS -

AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
AGC	Associated General Contractors of America

AI	Asphalt Institute
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AITC	American Institute of Timber Construction
ANSI	American National Standards Institute, Inc.
ARA	American Railway Association
AREA	American Railway Engineering Association
ARTBA	American Road and Transportation Builders Association
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
ATSSA	American Traffic Safety Services Association
AWG	American Wire Gauge
AWPA	American Wood Preservers' Association
AWS	American Welding Society
AWWA	American Water Works Association
CCA	Colorado Contractors Association
CDOT	Colorado Department of Transportation
CP	Colorado Procedure
CPSC	Consumer Products Safety Commission
CRS	Colorado Revised Statutes, 1973, as amended
CRSI	Concrete Reinforcing Steel Institute
DBIA	Design Build Institute of America

EIA	Electric Industries Association
FHWA	Federal Highway Administration Department of Transportation
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IMSA	International Municipal Signal Association
IPCEA	Insulated Power Cable Engineers Association
ITE	Institute of Transportation Engineers
MIL	Military Specifications
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code
NEMA	National Electrical Manufacturers' Association
NIST	National Institute of Standards and Technology
NSF	National Sanitation Foundation
OSHA	Occupational Safety and Health Act
SAE	Society of Automotive Engineers
UL	Underwriters Laboratories, Inc.

ADVERTISEMENT - A public announcement inviting Bid Proposals for Work to be performed and/or Materials and Equipment to be furnished.

APPLICATION FOR PAYMENT - The application submitted by Contractor for payment for Work performed during the prior pay period. May also be called Pay Request.

BASIS OF PAYMENT - The terms under which Work is paid for, as designated in the Contract Documents.

BID - The offer of a Bidder, on the prescribed form(s), to perform the Work at the prices quoted. May also be referred to as a Bid Proposal or Proposal.

BIDDER - An individual, firm or corporation submitting a Bid Proposal for the Work.

BID PROPOSAL - The offer of a Bidder, on the prescribed form(s), to perform the Work at the prices quoted. May also be referred to as Bid or Proposal.

BID PROPOSAL FORM - The documents furnished by Thornton on which the offer of a Bidder is submitted.

BID PROPOSAL GUARANTY - The security furnished with a Bid Proposal to guaranty that the Bidder will enter into the Contract if the Bid Proposal is accepted and a Contract is awarded.

BUSINESS DAY - Monday through Friday, except for holidays observed by Thornton.

CALENDAR DAY - Each and every day shown on the calendar, beginning and ending at midnight.

CERTIFIED INVOICE - An invoice from a supplier which has been endorsed by the Contractor guaranteeing that the Material was purchased and received and establishing the value of the Material.

CHANGE ORDER - A written order issued to the Contractor by Thornton which covers additions, deletions, or revisions to the Work, Extra Work, and/or any adjustment to the Contract Time and/or Contract Price. The Change Order is the only method authorized for modifying the Contract.

CHANGED OR EXTRA WORK - Work not provided for in the Contract as awarded, but determined by Thornton to be essential to the satisfactory completion of the Contract within its intended scope.

CONDITION PRECEDENT - An act or event that shall occur prior to the start of a subsequent act or event as defined by the Contract Documents.

CONSTRUCTION EQUIPMENT - All plant, machinery, tools and apparatus, including parts and supplies for operation and maintenance, which are necessary for the proper construction and acceptable completion of the Work.

CONTRACT DOCUMENTS - The Contract Documents are comprised of the items listed in the Contract.

CONTRACT PRICE - The monies payable by Thornton to Contractor for completion of the Work in accordance with the Contract Documents.

CONTRACT TIME - The number of Calendar Days, including authorized time extensions, allowed for Substantial Completion of the Work. Where a calendar date of completion is specified, the Work shall be substantially completed on or before that date, including authorized time extensions.

CONTRACTOR - The Party contracting directly with Thornton to furnish and perform all Work in accordance with the Contract Documents.

DEFECTIVE - An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Initial Acceptance (unless responsibility for the protection thereof has been assumed by Thornton in writing at Substantial Completion).

DRAWINGS - The Drawings or reproductions provided by Thornton which show the location, character, dimensions and details of the Work. May also be called Plans.

ENGINEER - Depending on the context, Engineer may mean the person or designated representative assigned by Thornton within the Infrastructure Department to fulfill the responsibility, duty, and authority associated with the position of City Engineer or Traffic Engineer, or Engineer may mean the consulting engineer engaged by Thornton to produce designs, drawings, and specifications for the construction of the Project.

FINAL ACCEPTANCE - The acknowledgment by Thornton that the Warranty Period has expired and outstanding items have been repaired to the satisfaction of Thornton and there appears to be no further outstanding items to be corrected under the Warranty.

FINAL PAYMENT - The final amount due to the Contractor, as may be adjusted for any verified statements of claim properly filed with Thornton, upon achieving Initial Acceptance of the Work and payable at 5:00 p.m. on the Final Settlement Date.

FINAL SETTLEMENT DATE - The date designated by Thornton in accordance with CRS 38-26-107, as may be amended from time to time.

GENDER AND NUMBER - References are made as if masculine in gender and singular in number unless neuter gender is appropriate in the context; however, the use of any gender shall be applicable to all genders and the use of singular number shall include the plural and conversely.

GOOD AND WORKMANLIKE MANNER - In a manner generally considered skillful by those capable of judging such Work and as compared to industry standard practices in the Denver Metropolitan Area.

GOOD REPAIR - A condition free from any defect, functional problems, or structural deterioration (except that from ordinary and reasonable use) which appreciably reduces the effectiveness or efficiency of the Work for the purpose intended, or any departure from the standards of original construction described in the Contract Documents. The Contractor warrants that the Work shall be in Good Repair during the Warranty Period.

INITIAL ACCEPTANCE - An acknowledgment by Thornton that, to the best of Thornton knowledge, all Work, including Punch List items, has been completed in

accordance with the Contract Documents. Initial Acceptance shall not release the Contractor of any Warranty obligations.

LUMP SUM PRICE - Prices as established by the Bid Proposal, Schedule of Contract Items and Prices, for elements of Work which are to be installed complete in place and paid as a stipulated sum for the entire element of Work.

MATERIALS AND/OR EQUIPMENT - All components, articles, appliances, devices, substances, supplies, and miscellaneous items specified or required for the construction of the Work.

MAY - Permissive.

METHOD OF MEASUREMENT - The manner in which a Pay Item is measured.

MILESTONE DATE - A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of the entirety of the Work.

NON-CONFORMANCE - Not in accordance with the terms and conditions set forth in the Contract Documents.

NOTICE OF AWARD - The written notice provided by Thornton to the successful Bidder awarding a Contract for the Work.

NOTICE TO PROCEED - Written notice to the Contractor to proceed with the Work, including, when applicable, the date of the beginning and the end of the Contract Time.

OWNER - Thornton or its designated representative. May also be referred to as Thornton.

PAY ITEM - A specifically described element of Work for which a price is agreed to in the Contract Documents.

PLANS - The Drawings, or reproductions, provided by Thornton, which show the location, character, dimensions, and details of the Work. May also be called Drawings.

PROJECT - The overall project of which the Work may be all or only a part.

PUNCH LIST - The list of Work items contained in the Certificate of Substantial Completion that the Contractor is required to complete or correct prior to Thornton granting Initial Acceptance.

QUALITY ASSURANCE TESTING - The testing performed and paid for by Thornton to assist in evaluating whether Materials or workmanship complies with the quality requirements.

QUALITY CONTROL TESTING - The testing that the Contractor performs at its cost to assure that all Materials and workmanship have met the minimum standards for quality.

RECORD DRAWINGS - Drawings or other construction documents continuously maintained by the Contractor during the course of construction to show changes made to the original Drawings and/or Specifications. May also referred to as As-Built Drawings.

RIGHT-OF-WAY - A general term denoting land, property, or interest therein, acquired for or devoted to the construction of an improvement; may also be referred to as ROW.

SALVAGEABLE MATERIAL - Material that can be saved or salvaged.

SAMPLES - Physical examples furnished or constructed by the Contractor to illustrate Materials, and Equipment, workmanship or finishes, and to establish standards by which the Work will be judged.

SCHEDULE OF WORK - A bar chart schedule or a critical path method (CPM) schedule, as the Contract Documents require, which graphically depicts the Contractor's plan for the performance of the Work from Notice to Proceed to Substantial Completion.

SHALL - Mandatory.

SHOP DRAWINGS - Drawings, diagrams, schedules and other data specifically prepared for the Work by the Contractor or Subcontractor or sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

SPECIFICATIONS - Those portions of the Contract Documents, which may also be known as the Technical Specifications, consisting of the written technical descriptions of Materials and Equipment, construction systems, standards, and workmanship applicable to the Work.

STOP WORK ORDER - An order issued by Thornton to the Contactor to suspend Work under the Contract; except Work necessary to assure the safety and protection of persons and property shall continue to be the responsibility of the Contactor unless otherwise directed by Thornton.

SUBCONTRACTOR - A party supplying labor and material, or only labor, for Work under a separate contract or agreement with the Contractor. Nothing contained in the Contract Documents shall create any contractual relationship between Thornton and any Subcontractor.

SUBMITTALS - Shop Drawings, Samples, diagrams, illustrations, certificates, test reports, schedules, performance charts, brochures, shop layouts, fabrication layouts, assembly layouts, foundation layouts, wiring and piping layouts, Specifications and descriptive literature, and any other submittals required by the

Contract Documents, which are prepared by the Contractor or a Subcontractor, manufacturer, supplier or distributor, and which illustrate some portion of the Work.

SUBSTANTIAL COMPLETION - When the Work is sufficiently completed so it may be utilized by Thornton for the purposes for which it was intended, in accordance with applicable life, health, and safety codes, but excluding minor Work to be completed or corrected as Punch List Work.

SUBSTANTIAL COMPLETION DATE - The date on which all the Work is required to be substantially completed. May also be called Date of Substantial Completion.

SUPERINTENDENT - The Contractor's authorized on-site representative in charge of directing the Work.

THORNTON REPRESENTATIVE - Thornton authorized on-site representative assigned to observe the Work.

UNIT PRICE - Prices as established by the Bid Proposal, Schedule of Contract Items and Prices and/or by Change Orders for discrete elements of Work intended to be paid by multiplying the actual quantity of Work performed by the Unit Price bid or subsequently agreed upon by Change Order.

WARRANTY PERIOD - The period from Initial Acceptance to Final Acceptance during which the Contractor is responsible for corrections to keep the Work in Good Repair.

WORK - All Materials and Equipment incorporated or to be incorporated into the Work, and all labor, expendable equipment, utilities, transportation, operations and services necessary to produce the construction, including all obligations, duties, and responsibilities necessary to the successful completion of the construction of the Work in Good and Workmanlike Manner.

21. DISPUTE VENUE/APPLICABLE LAW/STATUTE OF LIMITATIONS

- A. In the event of any dispute arising under the Contract, venue shall lie in the DISPUTE District Court in and for the County of Adams, State of Colorado.
- B. The laws of the State of Colorado shall apply to any dispute, notwithstanding its choice of law principles.
- C. Any action arising out of or relating to the Contract or the Work asserted by the Contractor against Thornton shall be brought within two (2) years from when the action accrued, pursuant to C.R.S. § 13-80-102(h).

22. DRAWINGS AND SPECIFICATIONS

- A. After execution of the Contract, Thornton will provide the Contractor with four (4) sets of Drawings and Specifications. If additional Drawings and Specifications are required, the Contractor can download and print the

required number of documents at its expense from Thornton on-line document posting service provider.

- B. When, in the opinion of Thornton, revised partial Plans, Drawings and/or Specifications are required to clarify or reflect Changed or Extra Work, Thornton shall provide four (4) copies of such revisions to Contractor. Additional copies shall be paid for by the Contractor. Contractor shall immediately post such revisions to the Record Drawings to be maintained by the Contractor.
- C. The Drawings and Specifications are the property of Thornton and are furnished to the Contractor solely for the construction of the Work.
- D. Data and Measurements. The data given in the Specifications and shown on the Drawings are believed to be accurate, but Thornton do not guarantee the accuracy of such data. It is the Contractor's responsibility to confirm all levels, locations and measurements, and verify all dimensions prior to construction and adapt the Work to the exact limits of construction. Scale measurements taken from Drawings are solely for reference and must be verified by the Contractor.

23. DRAWINGS SHOWING CHANGES DURING CONSTRUCTION (Record Drawings or As-Builts)

Throughout construction, the Contractor shall maintain a thorough up-to-date record of all changes on the Drawings made during construction. As a condition precedent prior to granting Initial Acceptance, the Contractor shall file with Thornton one (1) set of complete reproducible red lined Record Drawings showing all changes and including Contractor's field construction notes neatly and legibly recorded thereon. Such drawings shall include, but not be limited to, the exact routing if changed from drawing location of sewer, water, gas, oxygen supply, condenser water lines, fuel oil tanks and lines, fire protection lines, and any other buried utility lines, and routing of buried electrical feeder lines and changes to routing of conduit runs which are buried or concealed in concrete slabs.

24. EXTENSION OF CONTRACT TIME

- A. The Contractor expressly agrees that in undertaking to complete the Work within the Contract Time, it has taken into consideration and made allowances in the Schedule of Work for all delays and hindrances incidental to such Work, whether growing out of delays in securing Materials and Equipment, labor, normal inclement weather, or otherwise.
- B. If the Contractor is delayed at any time in the progress of the Work by an act or omission of Thornton, any separate contractor employed by Thornton, Changed or Extra Work, industry-wide labor strikes, fire, epidemics, quarantine restrictions, freight embargoes, unavoidable casualties, abnormal weather conditions, causes beyond the Contractor's control, or by

any other cause which Thornton determine may justify the delay, the Contract Time shall be extended for such reasonable time as Thornton may determine based on the timing and submittal requirements set forth below; provided, however, that such delay could not have been avoided by the exercise of due diligence by the Contractor.

- C. No extension of the Contract Time will be granted for:
1. Variations between an original Contract Pay Item quantity estimate and the actual Pay Item quantity placed unless such variance exceeds one hundred twenty-five percent (125%) of the original Contract Pay Item quantity estimate;
 2. Rain, snow, wind, flood, or natural phenomena of normal intensity for the locality where the Work is to be performed;
 3. Acts or omissions of the Contractor or its Subcontractors;
 4. Delays occurring concurrently (either at the same time, on the same critical path, or on a concurrent critical path) with delays attributable to acts or omissions of the Contractor or its Subcontractors; and/or
 5. A delay occurring to an activity which is not on the then-current critical path.
- D. A request for an extension of the Contract Time shall be submitted in writing to Thornton no later than ten (10) Calendar Days after the commencement of the delay. In the case of a continuing delay for the same cause, only one request is necessary.

The Contractor shall support its Request for an Extension of the Contract Time with a supplemental submittal, which shall be submitted to Thornton within fourteen (14) Calendar Days of submitting the initial Request. The Contractor's supplemental submittal shall include:

1. A description of the activities that were delayed, the reasons for the delay, an explanation of how they were delayed, and a detailed factual statement relative to all relevant dates, locations, etc.;
2. A schedule analysis (based on the critical path method) which shows in graphic form how and where a delay on the then-current critical path occurred and its effect on any Milestone Date or the Substantial Completion Date; and
3. An explanation of the Contractor's efforts to reschedule the Work in order to mitigate the effect of the delay and/or prevent further delays.

In the event the Contractor requires more than fourteen (14) Calendar Days to provide the supplemental submittal, the Contractor shall request in writing

an extension of time from Thornton within the fourteen (14) Calendar Day period. If the supplemental submittal or a request for an extension of time to submit the supplemental submittal is not received by Thornton within the fourteen (14) Calendar Day period, the Contractor waives any claim for an extension of Contract Time therefor.

- E. If abnormal weather conditions are the basis for a Request for an Extension of the Contract Time, such request shall be supported by data substantiating that weather conditions during the period of time impacted were unusually severe and could not have been reasonably anticipated. To establish the existence of abnormal weather, the Contractor must submit documentation which shows that the weather conditions experienced in a given calendar month fall outside of the extreme ranges of weather data for the Denver area published by the National Climatic Data Center during the same calendar month over the prior ten (10) year period. The existence of abnormal weather is not sufficient in itself to justify an extension of Contract Time; the Contractor must still demonstrate that the abnormal weather delayed specific activities that were on the then-current critical path that controlled the overall completion of the Work.
- F. Failure to strictly comply with the timing and submittal requirements of this section shall constitute a waiver by Contractor of any Request for an Extension of the Contract Time. All extensions to the Contract Time shall be by Change Order. No oral extensions of Contract time shall be granted by Thornton or may be relied upon by the Contractor.
- G. Notwithstanding anything to the contrary in the Contract Documents, an extension to the Contract Time, to the extent permitted under this section, shall be the sole and exclusive remedy of the Contractor for any delay in the commencement, prosecution, or completion of the Work; hindrance, interference, or obstruction in the Contractor's performance of the Work; loss of productivity; or other similar claims, whether or not such delays are foreseeable. In no event shall the Contractor or its Subcontractors be entitled to any compensation or recovery of any damages in connection with any delay to the Work. The Contractor hereby waives any and all claims past, present, or future for monetary damages arising out of or related to any delay or interference including, without limitation, consequential damages, lost opportunity costs, lost profits, impact damages, acceleration damages, loss of labor productivity damages, all other time related damages, or other similar remuneration against Thornton. Thornton exercise of any of its rights or remedies under the Contract Documents, regardless of the extent or frequency of Thornton exercise of such rights of remedies, shall not be construed as active interference with the Contractor's performance of the Work.

25. INDEMNIFICATION

- A. To the fullest extent permitted by law, the Contractor agrees to defend, indemnify, and hold harmless Thornton, its officers, agents, and

employees, from and against all liability, claims, judgments, suits and demands for damages to persons or property, which arise out of, result from, or are in any manner connected with the Work to be performed under this Contract, to the extent such injury, loss, or damage is caused by, or is claimed to be caused by, any negligent acts, errors or omissions of Contractor, any Subcontractor, or anyone else employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

- B. Contractor's duty to indemnify Thornton shall arise at the time written notice of a claim is first provided to Thornton regardless of whether claimant has filed suit on the claim. Contractor's indemnification obligation shall include, but not be limited to, any claim made against Thornton by (1) Contractor's employees or Subcontractors who have been injured on property owned by Thornton; (2) a third party claiming patent, copyright, or trademark infringement.
- C. Contractor's indemnification obligation as set forth above shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor or anyone else employed directly or indirectly by any of them or anyone for whose acts any of them may be liable, under worker's compensation acts, disability benefit acts, or other employee benefit acts.

26. LAWS, PERMITS, LICENSES, REGULATIONS, ETC.

- A. In executing the Work, the Contractor shall comply with all applicable federal and state laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over employment discrimination, wages and working conditions, and the construction of the Work including, but not limited to, all construction or building codes, OSHA requirements, and safety codes which apply to:
 - 1. Performance of the Work;
 - 2. Protection of the Project site, adjoining and/or adjacent property; and
 - 3. Maintenance of passage-ways, guard fences, or other protective facilities.
- B. The Contractor shall obtain all permits and pay for all licenses and approvals necessary for the construction of the Work and give all required notices.

7. LIQUIDATED DAMAGES - TIME AN ESSENTIAL ELEMENT

- A. It is mutually understood and agreed that time is an essential element of the Contract and that it is critical that the Work progress vigorously to completion.

- B. The Contractor agrees that the Work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will insure Milestone Dates are met and Substantial Completion is achieved within the Contract Time. Contractor understands that the Substantial Completion Date set forth in the Contract Documents is a reasonable time for completion of the Work, taking into consideration the average of the preceding ten (10) years' climatic range during the specified Contract Time based on U.S. Weather Bureau statistics for the locality where the Work is to be performed and the usual industrial conditions prevailing in that locality.
- C. If the Contractor neglects, fails or refuses to complete the Work within the Contract Time, then for each Calendar Day after the end of the Contract Time Substantial Completion of the Work is not achieved, the amount per Calendar Day specified in the Special Conditions shall be assessed by Thornton, not as a penalty, but as a predetermined and agreed upon Liquidated Damages.
- D. The amount is fixed and agreed upon by and between the Contractor and Thornton because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages Thornton would sustain in the event the Work is not completed by a Milestone Date or the Date of Substantial Completion.
- E. Thornton shall have the right to deduct Liquidated Damages from any money due, or to become due the Contractor, and to sue for and recover any additional compensation for damages for non-performance of the Contract.
- F. The assessment of Liquidated Damages for failure to complete the Work within the Contract Time shall not constitute a waiver of Thornton right to collect any additional damages which Thornton may sustain by failure of the Contractor to carry out the terms of this Contract.
- G. If Liquidated Damages for Milestone Dates are specified in the Special Conditions, all conditions for Liquidated Damages shall apply to each and every Milestone specified. All Milestones represent independent damages Thornton will suffer and therefore shall be viewed independently. All Milestones shall be cumulative, increasing by the amount specified for each date the Contractor does not achieve substantial completion for each specific Milestone. If the Contractor fails to obtain Substantial Completion of the Work within the Contract Time, the Liquidated Damages for Milestone Dates shall cease to accrue and Liquidated Damages for failure to complete the Work will commence.

28. MATERIALS, EQUIPMENT, SUPPLIES, SERVICES, FACILITIES

- A. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all Materials and

Equipment, Construction Equipment, including rental equipment, water, heat, light, fuel, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the Work in a Good and Workmanlike Manner within the Contract Time.

- B. No Materials or Equipment shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

29. NON-DISCRIMINATION

Contractor, its agents, employees, and Subcontractors shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, gender, religion, or physical or mental disability in any policy or practice.

30. NOTICE AND SERVICE

Where the manner of giving notice is not otherwise provided, notice to the Contractor from Thornton shall be in writing and considered delivered and service completed, when the notice is posted, by certified mail, to the Contractor at the address given in the Contractor's Bid Proposal, or delivered in person to the Contractor or its authorized representative on the Project site.

31. OPERATIONS AND STORAGE AREAS

- A. All operations of the Contractor (including storage of Materials and Equipment) shall be confined to areas authorized by Thornton. The Contractor shall be liable for any and all damages to such premises.
- B. The Contractor shall defend, indemnify, and hold harmless Thornton from liability of any nature or kind arising from any use, trespass, or damage occasioned by its operations on the premises of third persons.
- C. The Contractor shall be responsible for the care, compliance with law, and storage of Materials or Equipment delivered to the Project site or purchased for use thereon. Stored Materials or Equipment shall be carefully and continuously protected from damage or deterioration and located so as to facilitate inspection by Thornton. The responsibility for the care and storage of Materials or Equipment shall be the Contractor's whether such Materials or Equipment are furnished by the Contractor or by Thornton. Storage of Materials or Equipment shall not unduly interfere with the progress of the Contractor's Work or the work of any other contractor.

32. OR EQUAL CLAUSE

- A. The inclusion of a manufacturer's name, trademark, or other proprietary identification of a product shall not limit competition, but shall establish a

standard of quality, implying an “or equal” clause, unless expressly specified otherwise (see Special Conditions). However, the substitution of a product in place of that specified shall be permitted only upon Thornton issuance of written approval in the form of an addendum or Change Order in response to a formal request submitted by the Contractor sufficiently in advance to allow adequate time for evaluation by Thornton. If Thornton, in their sole discretion, determines that tests are necessary for a proper evaluation, such testing shall be performed as specified by Thornton and at the Contractor’s expense.

- B. The substitution of a product shall be subject, without limitation, to any requirements listed in the Special Conditions or other parts of the Contract Documents and the following conditions:
 - 1. It is determined by Thornton that the proposed substitute product is equal or superior in properties, quality, character, and appearance to that specified;
 - 2. Such changes as may be required in the Work to install the substitute product and to properly integrate it into the Work are approved by Thornton;
 - 3. All costs for changes due to substitutions are the responsibility of the Contractor;
 - 4. The Contractor will provide at least the same warranty for the substitution that the Contractor would have provided for the product specified; and
 - 5. The effect of the substitution on the total cost of the Work is approved by Thornton.

33. ORDER OF CONSTRUCTION

Where Thornton operations require specific sequencing of the Work, such sequencing requirements as provided for in the Contract Documents shall be followed.

34. OVERTIME

Any Work necessary to maintain the Schedule of Work that is considered shall be performed without additional expense to Thornton. The Contractor shall notify Thornton in writing a minimum of two (2) Business Days in advance of any overtime Work being performed.

35. PATENTS, COPYRIGHTS, AND ROYALTIES

- A. The Contractor shall protect, defend, indemnify, and hold harmless Thornton and its officers, agents, servants, and employees from liability of

any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Work, including its use by Thornton or Thornton officers, agents, servants, or employees, unless otherwise specified in the Contract Documents.

If the Contractor uses any design, device, or Materials and Equipment covered by letters, patent or copyright, it shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device or material. It is mutually agreed and understood that without exception, the Contractor shall pay all royalty and license fees and the Contract Price shall include all royalties or costs arising from the use of such design, device, or Materials and Equipment in any way involved in the Work. The Contractor and/or its Surety shall defend, indemnify and hold harmless Thornton from any and all claims for design, device, or Materials and Equipment, or any trademark or copyright in connection with the Work, and shall indemnify Thornton for the cost, expense, or damage which it may be obligated to pay by reason of such infringement during the prosecution of the Work or after completion of the Work.

36. PAYMENT FOR USE, OR OCCUPANCY OF WORK, SUBSTANTIAL COMPLETION, PUNCH LIST, FINAL PAYMENT, WARRANTY PERIOD

No progress or Final Payment, nor any partial or entire use or occupancy of the Work, nor acceptance thereof, by Thornton shall be construed to be acceptance of Defective Work or improper Materials or Equipment, either wholly or in part. The Contractor's obligation to perform and complete the Work in strict accordance with the Contract Documents shall be absolute.

- A. When the Contractor considers the Work to be substantially complete, the Contractor shall make a written request to Thornton for the issuance of a Certificate of Substantial Completion. Thornton, upon receipt of the request, shall make an inspection of the Work and either issue a written Certificate of Substantial Completion, or deny the Contractor's request in writing and provide the reasons for such denial.
- B. In the case of a denial of the issuance of a Certificate of Substantial Completion, the Contractor shall complete the Work so as to address Thornton concerns and comply with the Contract Documents and shall again request in writing that Thornton issue a written Certificate of Substantial Completion. Thornton will handle any subsequent requests as outlined herein.
- C. If Thornton issues a Certificate of Substantial Completion, the Certificate shall list any items remaining to be completed as Punch List items and shall set a date certain by which the Contractor shall complete or correct the Punch List items. The date certain shall not be longer than thirty (30) Calendar Days beyond the date of the Certificate of Substantial Completion.

If the Contractor does not provide in writing within four (4) Calendar Days of the issuance of the Certificate of Substantial Completion good and sufficient reasons why the Punch List Work cannot be completed by the date established in the Certificate of Substantial Completion, the date shall be as established in the Certificate and the Punch List Work shall be completed by that date. If the Contractor does provide good and sufficient reason why the Punch List Work cannot be completed by the date certain, Thornton will revoke the Certificate of Substantial Completion until such time as the Work is sufficiently complete to allow the Punch List work to be completed within thirty (30) Calendar Days from the date of Substantial Completion. If the Contractor does not complete the items on the Punch List by the date certain, Thornton, upon seven (7) Calendar Days notice, shall have the option to withhold from the Final Payment up to two (2) times the value of the uncompleted Work, to complete any uncompleted Work or repair deficient Work, and to deduct the actual cost from any amounts due or that become due to the Contractor and or to seek compensation from the Surety.

- D. Upon completion of the Punch List items, the Contractor shall make written application to Thornton for an inspection of the Work. Thornton will promptly make such inspection, and when Thornton finds the Work acceptable and complete under the Contract Documents, Thornton will promptly grant Initial Acceptance and will, as required by CRS 38-26-107 as may be amended, establish the Final Settlement Date and post or advertise the Notice of Contractor's Final Settlement.

- E. The Contractor shall submit a final Application for Payment upon completion of the Punch List. Prior to receiving Final Payment, the Contractor, if requested by Thornton, shall file with Thornton:
 - 1. Receipts showing payment in full;
 - 2. A waiver of claims and/or liens from each Subcontractor, material men, supplier, manufacturer, and dealer for all labor, Material and Equipment used or furnished by each on the Work; and
 - 3. A complete release of all claims and/or liens of the Contractor which may have arisen under the Contract.

In lieu thereof, Thornton may request and the Contractor shall file statements showing the balance due on all accounts. The manner in which settlement is made by Thornton with the Contractor shall not release the Contractor or its Surety.

- F. The Warranty Period shall begin on the Date of Initial Acceptance. Thornton will issue Initial Acceptance in writing that shall set out the beginning and end dates for the Warranty Period.

- G. The Contractor shall be responsible for the maintenance, security, heat, utilities, damages to the Work, and insurance until the date of Initial Acceptance. In addition, the Contractor shall be responsible for the provision of maintenance, security, heat, utilities, damages to the Work, and insurance for the affected portion of the Work during any period in which the Contractor is called upon to perform Warranty Work.

37. PAYMENT WITHHELD

- A. Thornton may withhold payment or, on account of subsequently discovered evidence, may nullify the whole or part of any payment certificate as may be necessary to protect Thornton from loss on account of any one (1) or more of the following:
1. Defective Work not remedied, Thornton may withhold up to two (2) times the value of the defective Work;
 2. Claims filed or notice indicating probable filing of claims of third parties against the Contractor;
 3. Failure of the Contractor to make payments to Subcontractors or to make payments for labor, Material, Equipment, Construction Equipment, or equipment rental;
 4. Reasonable doubt that the Work can be completed for the balance of the Contract Price remaining;
 5. Damage to a Subcontractor or another contractor;
 6. Failure or refusal of the Contractor to comply with an instruction of Thornton within a reasonable time;
 7. Unsatisfactory prosecution of the Work;
 8. Liquidated Damages assessed against the Contractor;
 9. Failure to comply with the provisions of the Contract Documents;
 10. Being in arrears to Thornton for any amounts owed to Thornton;
 11. Failure to supply or update the Schedule of Work; and/or
 12. Damage to Thornton property or equipment.

- B. When the above grounds are removed, payment shall be made for amounts withheld. The right to withhold payment; however, shall not preclude Thornton from its right to declare the Contract in default for any of the reasons specified in the General Conditions – Contract in Default.

38. PERSONAL LIABILITY OF THORNTON

In carrying out any of the provisions of the Contract or in exercising any power or authority granted thereby, there shall be no liability upon Thornton duly authorized representatives, either personally or as officials of Thornton, it being understood that in such matters, they act as agent and representatives of Thornton.

39. POTENTIALLY DANGEROUS WORK

- A. When the use of explosives, driving, or removal of piles, wrecking, excavation, or other similarly potentially dangerous activities are necessary for the prosecution of the Work, the Contractor shall exercise the utmost care so as not to endanger life or property. The Contractor shall be fully responsible for any and all damages, claims, and for the defense of any actions against Thornton resulting from such potentially damaging activity, including payment of attorneys' fees.
- B. The Contractor shall notify each public utility company or other owner of property having structures or improvements in proximity to the Project site of its intent to perform potentially dangerous activities. Such notice shall be given sufficiently in advance to enable the companies or owner's of property to take such steps as they deem necessary to relieve the Contractor of responsibility for any damages, claims, or the defense of any actions against Thornton resulting from the performance of such Work.
- C. All explosives shall be stored in a secure manner and all storage places shall be marked clearly "EXPLOSIVES - KEEP OFF", and shall be in the care of competent watchmen at all times.

40. PROGRESS PAYMENTS/APPLICATIONS FOR PAYMENT

- A. When monthly progress payments are authorized, the Contractor shall, on the date established by Thornton, submit to Thornton an itemized Application for Payment, on forms provided by Thornton and supported by such data substantiating the Contractor's right to payment as Thornton may require.
- B. If payments are to be authorized on account of Materials and Equipment not incorporated in the Work, but delivered and suitably stored at the Project site, which are necessary for the orderly prosecution of the Work, the Contractor shall furnish with its Application for Payment bills of sale, bills of lading, Certified Invoices, or such other evidence as may be appropriate and satisfactory to Thornton that establishes:

1. Actual cost, including transportation to the Project site, of such Materials and Equipment;
 2. Titles thereof in Thornton name, upon payment; and
 3. Appropriate insurance coverage to protect Thornton interest therein upon payment.
- C. The Contractor warrants that title to all Materials and Equipment covered by an Application for Payment, whether incorporated into the Work or not, shall pass to Thornton upon receipt of payment by the Contractor. The Contractor further warrants that upon submittal of an Application for Payment for Work for which payment has been received from Thornton, shall to the best of the Contractor's knowledge, information, and belief, be free and clear of all liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, suppliers, or other persons or entities making a claim by reason of having provided labor, Materials or Equipment relating to the Work; and that such Materials or Equipment furnished or installed comply with the requirements of the Contract Documents.
- D. The passing of title to Thornton shall not be construed as relieving the Contractor of the sole and complete responsibility for:
1. The care and protection of the Work, Materials and Equipment for which payment has been made; and
 2. The restoration of any damaged or destroyed Work, Materials or Equipment. Such responsibility shall continue until all Work under the Contract has been completed and accepted by Thornton.
- E. Thornton shall make progress payments on account of the Contract Price on the basis of Contractor's Application for Payment and shall make payment to Contractor within thirty (30) Calendar Days after the Application for Payment is approved by Thornton. All such payments will be measured by the schedule of values established in the Contract Documents (and in the case of Unit Price Work based on the number of units completed) or in the event there is no schedule of values, as provided in the Special Conditions.
- F. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, less the aggregate of payments previously made and less such amounts as Thornton is entitled to withhold in accordance with General Conditions - Payment Withheld:

1. Ninety-five percent (95%) of the Work completed (with the balance being retainage). Thornton may determine that as long as the character and progress of the Work remain satisfactory to it, no additional retainage will be withheld.
 2. Ninety-five percent (95%) (with the balance being retainage) of Materials and Equipment not incorporated in the Work, but delivered, suitably stored and accompanied by documentation satisfactory to Thornton as provided by the Contract Documents.
- G. Under no circumstances shall payment constitute a waiver of Thornton right to require the Contractor to fulfill all of the requirements of the Contract Documents.

41. PROTECTION OF PERSONS

- A. The Contractor shall:
1. At all times protect the lives and health of its employees and Subcontractors;
 2. Take all necessary precautions for the safety of all persons on or in the vicinity of the Project site; and
 3. Comply with all applicable federal, state, county, and municipal safety laws and codes.
- B. Contractor shall comply with all provisions of the "Williams Steiger Occupational Safety and Health Act of 1970" (OSHA), including any amendments thereto and rules and regulations issued pursuant thereto, applicable to the Work and performance of the Contract. Whereas the state in which the Work is performed has passed legislation bearing on Occupational Safety and Health, such legislation and amendments thereto, together with rules and regulations issued pursuant thereto shall be complied with by the Contractor.

42. PROTECTION OF PROPERTY

- A. The Contractor, at no additional expense to Thornton, shall at all times:
1. Safely guard Thornton property and abutting or adjacent property from injury, loss, or damage;
 2. Protect by false work, braces, shoring or other effective means all buildings, foundations, walls, fences, and other property along his line of Work, or affected directly by its Work, including, but not limited to, Thornton property, against damage;

3. Cover or otherwise protect stockpiles of Materials to avoid damage to the Materials and damage to any property from such Materials; and
 4. Repair, replace, or make good any such damage, loss or injury, unless caused directly by Thornton.
- B. The Contractor shall exercise care to protect from injury all water lines, sanitary sewer lines, gas mains, telephone cables, electric cables, services pipes, and other utilities or fixtures which may be encountered during the Work. All utilities and other service facilities or fixtures, if damaged, shall be repaired by the Contractor at its sole expense.
- C. The Contractor, at no additional expense to Thornton, shall at all times safely guard and protect the Work; provide, erect, and maintain suitable barriers around all excavations or obstructions to prevent accidents; and provide, place, and maintain during the night sufficient lights, signals, and signs for this purpose on or near the Work. The Contractor shall at all times, until Initial Acceptance, protect the Work, Equipment and Material from accidental or any other damage and repair any damage at no cost to Thornton.

43. QUALITY OF MATERIALS

In the absence of detailed Specifications, all Materials and Equipment shall conform to the latest standards of the American Society for Testing Materials (ASTM) available at the time the Invitation for Bids is issued, unless otherwise indicated.

44. REFERENCE TO STANDARD SPECIFICATIONS

Any reference to standard specifications in any of the Contract Documents shall always imply the latest edition of such standard specification or specifications available at the time the Invitation for Bids is issued, unless otherwise indicated.

45. REMEDY OF DEFECTS, THORNTON RIGHT TO CORRECT

If, in the opinion of Thornton, a defect exists, or functional or structural deterioration takes place, or substantial departure from the standards of original construction exists in the Work, Thornton shall notify the Contractor by letter sent by certified mail to the address given in the Contractor's Proposal. If the Contractor does not proceed within seven (7) Calendar Days of the date of the notice, to remedy such defects, deficiencies, deterioration or departures, or the Contractor's remedies are not adequate as determined by Thornton, Thornton may cause the repairs to be made as Thornton deems appropriate, and the cost shall be paid by the Contractor or its Surety or deducted from amounts due or that become due the Contractor.

46. RIGHT-OF-ENTRY

Contractor shall provide to Thornton, Thornton Representative and representatives of federal, state, county, district and municipal governments complete and free access to the Work, whenever access is requested by Thornton.

47. RIGHT OF THORNTON TO TERMINATE THE CONTRACT

Should it appear at any time that the Work is not being prosecuted to insure completion of the Work by a Milestone Date or within the Contract Time, and if upon seven (7) Calendar Days written notice to the Contractor, the Contractor fails to increase the quality or the quantity of the Work, or both, Thornton shall have the right to terminate the Contract and complete the Work as it deems appropriate. The Contractor shall not be entitled to any damages on account of such termination, and will be held liable for all costs and expenses incurred by Thornton in completing the Work. All money due the Contractor will be retained until the Work is completed and all expenses and costs have been deducted, and any money due Thornton shall be paid by the Contractor or its Surety.

48. RIGHT-OF-WAY

Thornton will furnish land and ROW as shown in the Contract Documents for the performance of the Work. Contractor shall confine its operations to the ROW furnished.

49. SANITARY CONVENIENCES

The Contractor shall furnish the necessary sanitary conveniences, properly secluded, for the use of workers during construction, and these conveniences shall be maintained in a manner that will be inoffensive and in compliance with federal, state, and local health and sanitation requirements.

50. SECURITY - CONTRACT

- A. The Contractor shall furnish two (2) separate surety bonds (in the form attached), each in an amount at least equal to one hundred percent (100%) of the Contract Price as security for the following:
 - 1. The faithful performance of the Contract and the terms, conditions, and stipulations contained therein; and
 - 2. Payment of all laborers and mechanics for labor performed and payment for all Materials and Equipment furnished and for all Construction Equipment used or rented in the performance of the Contract.

- B. The Surety on such bonds shall be satisfactory to Thornton, shall be a duly authorized surety company licensed to do business in the State of Colorado, shall appear in the latest Federal Register Circular 570 as published by the Department of the Treasury, unless otherwise approved by Thornton, and

shall have no less than a Best's A Rating. The Surety will in no way be financially associated with the Contractor.

- C. Any and all bonds shall be written as to make the Contract Documents a part thereof, whether by reference or attachment, in order to give the Surety full notice of the conditions therein.
- D. The Contractor shall within ten (10) Calendar Days from and including the date of Notice of Award, furnish Thornton with the required "Performance Bond" and "Labor and Materials Payment Bond", each in a sum equal to one hundred percent (100%) of the Contract Price.
- E. If at any time a Surety shall become insolvent, is declared bankrupt, loses its right to do business in the state in which the Work is to be performed, or is no longer listed in Department of the Treasury Circular 570, Contractor shall within ten (10) Calendar Days after notice from Thornton, substitute acceptable bonds in such form and sum and signed by such other Sureties satisfactory to Thornton.

51. SEPARATE CONTRACTS

- A. Thornton reserve the right to let other contracts in connection with the Project. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials, machinery, equipment, supplies and the execution of their work, and shall properly connect and coordinate its Work with theirs.
- B. If any part of the Contractor's Work depends upon the work of any other contractor for proper execution or results, the Contractor shall inspect and promptly report in writing to Thornton any lack of progress or defects in the other contractor's work that render it unsuitable for proper execution or results. Failure on the part of the Contractor to inspect and report shall constitute acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work. No extensions to the Contract Time will be granted if the Contractor fails to inspect and report on unsuitable work.
- C. To insure the proper execution of subsequent Work, the Contractor shall measure existing Work and shall at once report in writing to Thornton any incompatibility between the existing Work and the subsequent Work anticipated by the Contract Documents.

52. SEVERABILITY CLAUSE

The provisions of this Contract shall be deemed to be severable, and if any term, phrase, or portion of the Contract shall be determined to be unlawful or otherwise unenforceable, the remainder of the Contract shall remain in full force and effect, so long as the clause severed does not affect the intent of the Parties.

53. SUBCONTRACTING

- A. The Contractor may utilize where appropriate the services of Subcontractors on parts of the Work.
- B. The Contractor shall not award any Work to a Subcontractor if Thornton objects.
- C. Thornton encourage all Contractors to utilize minority, disadvantaged, and women-owned businesses whenever possible.
- D. The Contractor shall be as fully responsible to Thornton for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them or under their control, as it is for the acts and omissions of itself and of persons directly employed by it.
- E. The Contractor shall cause appropriate provisions to be inserted in all subcontracts binding Subcontractors to the Contractor as Contractor is bound to Thornton.
- F. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and Thornton.

54. SUBMITTALS, SHOP DRAWINGS, SAMPLES, SERVICE PARTS MANUALS, AND OPERATOR'S INSTRUCTIONS

- A. Within fourteen (14) Calendar Days from Notice of Award, the Contractor shall submit an edited Submittal Log (provided in the Technical Specifications) which for each required Submittal, indicates the Contractor's proposed submittal date and the time allotted for Thornton or its representative's, review and approval of each Submittal if sooner than specified. This Submittal Log shall be consistent with the Contractor's Schedule of Work. The Contractor shall thoroughly review the Submittal Log to insure that all of the Project submittal requirements are listed and in the appropriate order of operations for their proposed construction schedule.
- B. The Contractor shall furnish all Shop Drawings and Samples which are specified or required by the Contract Documents for the completion of the Work. All Shop Drawing and Sample Submittals shall be submitted to Thornton in electronic format whenever possible. When electronic Submittals are not possible, a minimum of four (4) copies of the Submittal shall be provided. Shop Drawings of Material and Equipment offered by the Contractor for approval by Thornton shall be in sufficient detail to adequately show construction and operation. Shop Drawings and Samples submitted as herein provided by the Contractor and approved by Thornton for conformance with the design concept shall be executed in conformity with the Contract Documents, unless otherwise required by Thornton.

- C. Work performed in connection with the purchase, fabrication, manufacture, shipment, installation, or erection of Material or Equipment prior to Thornton review and approval, as specified herein, shall be at the Contractor's sole risk, responsibility, and expense.
- D. Shop Drawing and Sample Submittals shall be accompanied by a letter of transmittal which shall list Submittal numbers and dates of the Submittal and shall be in the form required by Thornton. Shop Drawings shall be complete in every respect and bound in sets. Any resubmittals shall show Submittal and resubmittal numbers as well as the dates for previous Submittals and resubmittals.
- E. The Contractor shall submit all Shop Drawings and Samples sufficiently in advance of construction to allow ample time for checking, correcting, resubmitting, rechecking, and approving to avoid any delay in the progress of the Work.
- F. Shop Drawings or Samples submitted shall be marked with the name of the Project, and Submittal number, and bear the stamp or specific written indication of approval of the Contractor as evidence that the Shop Drawings and Samples have been checked by the Contractor. Any Shop Drawings or Samples submitted without the Contractor's stamp of approval or specific written indication of approval shall not be considered by Thornton and shall be returned to the Contractor for approval and resubmission.
- G. At the time of each Submittal, the Contractor shall give Thornton notice of each variation between the Shop Drawing or Sample and the requirements of the Contract Documents. The Contractor shall place a specific notation on the Shop Drawing or Sample and call such variation to Thornton attention in the Contractor's letter of transmittal. If the variation as submitted is acceptable, Thornton will provide written approval of the variation to the Contractor. Thornton review and approval of Shop Drawings or Samples shall not relieve the Contractor from responsibility for strict compliance with the requirements of the Contract Documents, unless the Contractor has, in writing, called Thornton attention to each variation at the time of submission, as required above, and Thornton has given unconditional written approval of each variation to Contractor. Thornton review and approval of any variation shall not extend to means, methods, techniques, sequences, or procedures of the construction of the Work or to safety precautions or programs incident thereto.
- H. By approving and submitting Shop Drawings and Samples, the Contractor represents that:
 - 1. It has determined and verified all field dimensions and measurements, quantities of Work, field construction criteria and

- installation requirements, Materials and Equipment, catalog numbers, and similar data;
2. It has checked, and coordinated such submittals with the requirements of the Work and the Contract Documents; and
 3. Data shown on the Shop Drawings are complete and accurate.
- I. All items of standard equipment shall be the latest model at time of delivery.
 - J. When Shop Drawings are submitted for the purpose of showing the installation in greater detail, their approval shall not excuse the Contractor from requirements shown on the Drawings and Specifications.
 - K. Shop Drawing and Sample Submittals not conforming to the above requirements shall be returned to the Contractor, without action by Thornton, for resubmittal. Any resulting delay shall be the responsibility of the Contractor.
 - L. Thornton review and approval of Shop Drawings and Samples submitted by the Contractor shall be only for general conformance with the design concept, as otherwise provided, and shall not be construed as:
 1. Permitting any departure from the Contract Documents.
 2. Relieving the Contractor of the responsibility for any error in details, dimensions, or otherwise that may exist in such Submittals.
 3. Constituting a blanket approval of dimensions, quantities, or details of the Material or Equipment shown; or lubrication drawings showing type and frequency of lubrication. Detailed parts drawings shall show location, name, and catalog numbers of parts.
 4. Approving departures from additional details or instructions previously furnished by Thornton. Such check or approval shall not relieve the Contractor of the full responsibility of meeting all of the requirements of the Contract Documents.
 - M. Four (4) sets of bound Operator's Instructions and electric copy shall be furnished by the Contractor for Equipment furnished under the Contract that is specially listed or that is considered to be of a special or complex nature. Operator's Instructions shall include detailed manufacturer's information on all operations and maintenance recommendations.
 - N. Four (4) sets each of bound Service Parts Manuals and an electric copy shall be furnished by the Contractor for all items of standard manufacture.

- O. All Operator Instructions and Service Parts Manuals shall be bound in permanent binders satisfactory to Thornton and shall be furnished to Thornton as a condition precedent to granting Initial Acceptance.

55. SUSPENSION OF WORK BY THORNTON

Thornton shall have the right to suspend and reinstate execution of the whole or any part of the Work without invalidating the provisions of the Contract for such period or periods of time as Thornton may deem necessary due to unsuitable weather or such other conditions considered unfavorable for the suitable prosecution of the Work, including failure of the Contractor to supply labor, Materials or Equipment meeting the requirements of the Contract Documents, or failure to carry out instructions or to perform such other provisions of the Contract considered unfavorable for the orderly or suitable prosecution of the Work. During periods of suspension, the Contractor shall protect the Work from damage. Stop Work Orders for suspension of the Work and orders to reinstate performance of the Work shall be issued by Thornton to the Contractor in writing. If the Stop Work Order was issued due to Contractor's, Subcontractor's, and or supplier's non-compliance with the Contract, the Contractor shall, upon approval by Thornton, perform Work necessary to bring the Work back into compliance with the Contract. During such a suspension period the Contractor shall not be entitled to any compensation as a result of the suspension, including compensation for delay. The Contract Time shall continue to run during such suspension period and the Contractor shall remain fully responsible for any liquidated damages that are assessed as a result of late performance.

56. TAXES

- A. Contractor shall pay all sales, consumer, use, or other similar taxes required to be paid in accordance with the laws and regulations applicable to the Work. Thornton are exempt from Colorado State and Thornton sales and use taxes on Materials and Equipment to be permanently incorporated into the Work. Said taxes shall not be included in the Contractor's Bid Proposal or the Contract Price.
- B. Contractor shall apply to the Colorado Department of Revenue for an exemption certificate and purchase the Materials and Equipment tax free (Section 39-26-104, C.R.S. as amended). Contractor shall be liable for exempt taxes paid due to the failure to apply for exemption certificates or failure to use them.

57. TERMINATION FOR CONVENIENCE

- A. Termination Notice - Thornton may terminate the Contract, in whole or in part, for convenience if termination is in Thornton best interest. Contract termination will be initiated by a written Contract Termination Notice to the Contractor which will specify the effective date of the termination.

- B. Canceled Commitments - The Contractor, after receiving the Contract Termination Notice, shall cancel any outstanding commitments for procurement of Materials and Equipment. In addition, the Contractor shall use reasonable efforts to cancel or divert any outstanding subcontracted commitments, unless otherwise requested by Thornton. With respect to such canceled commitments the Contractor shall:
1. Settle all outstanding liabilities and all claims arising out of the canceled commitments. Such settlements shall be approved by Thornton and shall be final; and
 2. Assign to Thornton all of the rights, title, and interest of the Contractor under the terminated orders and Subcontracts, as directed by Thornton. Thornton will then have the right to settle or pay any or all claims arising out of the termination of these commitments.
- C. Termination Claim - The Contractor shall submit its termination claim to Thornton within ninety (90) Calendar Days after the effective date of the Contract Termination Notice. During the ninety (90) Calendar Day period, the Contractor may make a written request to Thornton for a time extension in preparing the claim. Any time extension must be approved by Thornton. If the Contractor fails to submit its termination claim within the time allowed, Thornton may determine the amount due the Contractor, if any, by reason of the termination, which determination shall be final. Failure of the Contractor to submit a termination claim within the time allowed shall constitute a waiver of the claim.
- D. Payment - Subject to paragraph C above, the Contractor and Thornton may agree upon the whole or any part of the amount to be paid the Contractor as a result of the termination. The amount may include reasonable cancellation charges incurred by the Contractor. The amount may also include any reasonable loss upon outstanding commitments for Subcontracts which the Contractor is unable to cancel, provided the Contractor has proven reasonable effort to divert the commitments to other activities. The amount agreed upon shall be embodied in a Change Order, and the Contractor shall be paid that amount. Where applicable, payments claimed pursuant to termination shall be based on Unit Prices. Payment for partially completed lump sum items may be made in the proportion that the partially completed Work is to the total lump sum item. Where Work performed is of a nature that it is impossible to separate the costs of uncompleted Work from completed Work, the Contractor shall be paid the actual cost incurred for the necessary preparatory Work and other Work completed. The Contractor shall not be entitled to profit or overhead on uncompleted Work.

- E. Disposition of Work and Inventory - The Contractor shall transfer title and deliver to Thornton, such items which, if the Contract had been completed, would have been furnished to Thornton including:
1. Completed and partially completed Work; and
 2. Materials or Equipment produced, acquired, or in the process of being produced that is terminated by the notice.
- Other than the above, any termination inventory resulting from the termination may, with written approval of Thornton, be sold or acquired by the Contractor under the conditions prescribed by and at prices approved by Thornton. The proceeds of any such disposition shall be applied to reduce any payments owed to the Contractor, or shall be credited to the cost of Work, or paid in a manner as directed by Thornton. Until final disposition, the Contractor shall protect and preserve all Material and Equipment which is in its possession and in which Thornton has or may have an interest.
- F. Cost Records - The Contractor agrees to make cost records available to the extent they are necessary to determine the validity and amount of each item in the termination claim.
- G. Contractual Responsibilities - Termination of a Contract, or portion thereof, shall not relieve the Contractor of contractual responsibilities for the Work completed, nor shall it relieve the Surety of its obligation for and concerning any claim arising out of Work performed.

58. THORNTON REMEDIES CUMULATIVE; NONWAIVER

No right or remedy conferred upon or reserved to Thornton by the Contract shall be considered exclusive of any other remedy or contractual right, but the same shall be distinct, separate, and cumulative, and shall be in addition to every other remedy existing at law or in equity or by statute; and every remedy given by the Contract to Thornton may be exercised from time to time as often as the occasion may arise, or as may be deemed expedient. No delay or omission on the part of Thornton to exercise any right or remedy arising from any default on the part of the Contractor shall impair such right or remedy or shall be construed to be a waiver of any such default or an acquiescence thereto, or otherwise affect the right of Thornton to enforce the same in the event of any subsequent breach or default by the Contractor.

59. USE OR OCCUPANCY OF COMPLETED PORTIONS

- A. Thornton shall have the right to take possession of, use, or occupy any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work or any portions, may, or may not, have expired. Such taking possession, use or occupancy shall not be deemed an

acceptance of any Work until all Work has been completed in accordance with the Contract Documents.

- B. If partial use or occupancy increases the cost, or delays the Work, the Contractor shall be entitled to an adjustment to the Contract Price, Contract Time, or both, as Thornton may determine.
- C. Consent of the Surety and endorsement from the insurance carrier or carriers permitting occupancy or use of any completed or partially completed portions of the Work by Thornton shall be secured by the Contractor.

60. VARIATION FROM ESTIMATED PAY ITEM QUANTITIES

On Contracts with Unit Prices, the Contractor may reasonably expect variations in the estimated quantity for any given Pay Item such that the actual quantity installed may range from seventy-five percent (75%) to one hundred twenty-five percent (125%) of the estimated quantity, unless a larger variation is stipulated on the Bid Proposal form. The Contractor shall not be allowed any claims for anticipated profits, for lost profits, or for any damages because of a difference between the estimated quantity for a Pay Item and the actual quantity for the Pay Item, or for the elimination or reduction of a Pay Item quantity as may be required to bring the cost of the Work within the limits of available funds or to reduce the Scope of the Work for any reason.

61. WARRANTY AS TO WORKMANSHIP, MATERIALS AND EQUIPMENT

- A. In addition to other promises and warranties contained herein, the Contractor warrants to Thornton that the Materials and Equipment furnished under the Contract will be of good quality and new, unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered Defective. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.
- B. Contractor further warrants to Thornton that competent laborers, mechanics, and tradesmen shall be used on the Work. Experienced manufacturer's representatives shall be used to supervise the installation of Equipment, as may be required by Thornton. Any special tools or construction equipment which may be required shall be provided by the Contractor.
- C. Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by Thornton, shall constitute acceptance of Work not done in accordance with the

Contract Documents or relieve the Contractor of liability in respect to any expressed or implied warranties or responsibility for faulty Materials, Equipment or workmanship. This Warranty will have no time limit except as prescribed by law.

62. WARRANTY PERIOD

- A. The Contractor agrees to keep all Work in Good Repair for a period of one (1) year from the date of Initial Acceptance, unless a longer period is specified in the Contract Documents. Upon written notice from Thornton to the Contractor of any aspect of the Work found by Thornton not to be in Good Repair, the Work shall be promptly repaired by the Contractor. Such repair, including any consequential damages resulting from the defect to be repaired, shall be made without further cost to Thornton.
- B. If the Contractor does not proceed to remedy such defects, deficiencies, deteriorations, or departures called to its attention within seven (7) Calendar Days after mailing of the notice and diligently pursue such repairs, Thornton may cause the repairs to be made as Thornton deem best and the cost shall be paid by the Contractor or its Surety.
- C. The obligations of the Contractor provided in this section shall be in addition to and not in limitation of any obligations imposed upon by it by any special guaranty or warranty required by the Contract Documents or otherwise prescribed by law.

63. WEATHER

During weather unsuitable for the proper execution of the Work in a first-class manner, all Work affected by such condition shall be properly protected from weather-related damage.

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NOTICE OF AWARD

Thornton, CO

December 7, 2015

TO: Signature Underwriters, Inc.
2598 South Lewis Way, Unit 3B
Lakewood CO, 80229

The City of Thornton and The City of Westminster ("The Cities"), having duly considered the Bid Proposal submitted on December 3, 2015, for the 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A as detailed in the Contract Documents and it appearing that your Bid Proposal for performing the Work is fair, equitable and to its best interest, the said Bid Proposal is hereby accepted in the amount of One Million Three Hundred Sixty Thousand, Two Hundred Thirty-Nine and 00/100 Dollars (\$1,360,239) for Phase No 1 Base Bid, Phase No. 1 Option No. 1 Bid, and for Phase No. 2 Base Bid., and as stipulated in the Bid Proposal.

In accordance with the terms of the Contract Documents, you are required to execute the formal Contract and furnish the required Performance Bond and Labor and Material Payment Bond as soon as possible from this Notice of Award.

In addition, you are requested to furnish at the same time IRS W-9 Taxpayer ID Forms and the required Certificates of Insurance and Additional Insured Endorsements evidencing compliance with the requirements for insurance stated in the Contract Documents.

The Bid Security submitted with your Bid Proposal will be retained until the Contract has been executed and the required Bonds, Insurance, and W-9 forms have been furnished and approved.

CITY OF THORNTON, COLORADO

By: _____
Alberto Mezarina
Contracts Manager

cc: City of Westminster, City Clerk
City of Thornton, City Clerk

file: 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No.
13-147A

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NOTICE TO PROCEED

Thornton, CO

_____, 20__

TO: Signature Underwriters, Inc.
2598 South Lewis Way, Unit 3B
Lakewood CO, 80229

RE: NOTICE TO PROCEED – 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No. 13-147A

You are hereby authorized to proceed with the Work within ten (10) consecutive Calendar Days from this date and substantially complete the Work within one hundred sixty (160) consecutive Calendar Days from this date. The date for Substantial Completion of this Project is _____, 20__. Liquidated Damages of three hundred forty-three and 68/100 dollars (\$343.68) per Calendar Day are applicable for each Calendar Day past the Substantial Completion date for which Work on this Project is not substantially complete. Other Liquidated Damages for missed milestone or other interim completion dates will apply if such dates are specified in the Contract Documents.

CITY OF THORNTON, COLORADO

BY: _____
Alberto Mezarina
Contracts Manager

cc: City of Westminster, City Clerk
City of Thornton, City Clerk

e-mail: Todd Rullo, PE, Street Supervisor
Jim Bilyeu, Plans Examining Supervisor

file: 136th and 144th Avenue Bridge Pedestrian Railing Corrosion Repairs, Project No.
13-147A

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TECHNICAL SPECIFICATIONS

SECTION NUMBER

SECTION TITLE

Section 1	Scope of Work
Section 05 04 00	Miscellaneous Steel
Section 09 96 00	High Performance Coatings
Revision of Section 509	Steel Structures
Revision of Section 519	Joint Filler/Caulking
Revision of Section 630	Construction Zone Traffic Control

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SECTION 1

SCOPE OF WORK

PART 1

This Project consists of the following:

General: This Project includes performing Work on and above Interstate 25. The Contractor will be required to coordinate the Work with the Colorado Department of Transportation (CDOT), Region 1, 2000 South Holly, Denver, CO 80222 (www.dot.state.co.us). The Contractor shall be responsible for completing all Work in accordance with the applicable sections of the CDOT Standard Specifications for Road and Bridge Construction - 2005 Edition (CDOT Standard Spec.'s) and these Contract Drawings and Technical Specification and for obtaining all required permits and licenses including, but not limited to, a traffic control permit. If the Work, or any portion thereof, is required to be completed outside normal working hours such as at night or on weekends, the contractor will be responsible for any and all costs associated with complying with those requirements, such as temporary lighting, advanced warning, etc. The Contractor will also be responsible for obtaining a traffic control permit from The Cities for all Work impacting pedestrian or vehicle traffic on both bridges, the bridges approaches, or the on or off ramps.

Appendices 1 and 2 contain drawings which are for information only and to help define the Work.

Appendix 1 consists of Drawings from the original construction of the 136th Avenue Bridge over I-25. Superimposed on these Drawings are notes to help define and quantify the Scope of the Work.

Appendix 2 includes Drawings to help define and quantify the Work at the 144th Avenue Bridge over I-25. These Drawings include notes related to the format and scope of a previous solicitation. All notes on these Drawings that relate to the format of the previous solicitation should be disregarded and do not apply to this solicitation. As far as the Work depicted on these Drawings, the only structure included in this Scope of Work is the main bridge over I-25. The east and west underpass structures, adjacent to the 144th Avenue Bridge, shown on those plans are not included in this Project.

Joint filler/caulking is to be applied to seal various locations for the fencing. Joint filler/caulking shall be applied to seal the interface between the vertical pickets and horizontal supporting members prior to painting on both the 136th Avenue and the 144th Avenue Bridges. This interface is identified by the designation "Stripe Coat" on the Drawings in Appendix 2, but shall be performed for both bridges. The exception to this is if the 144th Avenue Bridge (Base Bid Phase No.1 – Option No.1) is awarded. In this case the welding will be performed in lieu of the joint filler/caulking on pickets for the 144th Avenue Bridge, however, joint filler/caulking at other locations on the 144th Avenue Bridge shall still be applied where directed by the Engineer. The 136th Avenue Bridge will still require the joint filler/caulking. Caulking shall be applied at all locations as directed by the Engineer.

The cost of furnishing and installing the joint filler/caulking shall be included in the cost of the Work and no separate measurement or payment shall be made for the joint filler/caulking.

144th Avenue Bridge (Base Bid Phase No.1) (To be Awarded in December of 2015)

Remove architectural fence sections and shop clean and apply caulking/joint filler, and paint rail sections with a three (3) coat paint system and reinstall. All fence section posts will be field cleaned and painted with a three (3) coat paint system. Contractor will then replace the painted architectural fence sections, and remove and dispose of existing rail and handrail (Rub Rail) sections, and patch holes. The Work is to be completed in accordance with CDOT Standard Spec.'s, Section 708 – "Paints" and these Contract Documents.

144th Avenue Bridge (Base Bid Phase No.1 - Option No.1)

This option includes the cost for welding the sides of the pickets to the supporting steel on each architectural fence section.

144th Avenue Bridge (Phase No.1 Alternate No.1)

This Work includes the removal of existing architectural fence sections and disposal. Installation of new steel painted architectural fence sections with a three (3) coat paint system. New steel fence sections shall be fabricated in accordance with the original design Drawings included in Appendix 2. Work also includes field cleaning of all existing fence posts, coating with a three (3) coat paint system, the removal of and disposal of existing rub rail. Painting of architectural fence sections will be in accordance with CDOT Standard Specifications, Section 708 – "Paints". Color to match existing and is to be approved by The Cities.

136th Avenue Bridge (Phase No.2 Base Bid) (To be Awarded in February of 2016)

Work includes field cleaning of architectural pedestrian fence sections (approximately 647 linear feet) and fence posts, including the areas adjacent to the Picket/Rail interfaces, apply high quality caulking/joint filler and repaint with a three (3) coat paint system. The Work is to be completed in accordance with CDOT Standard Spec.'s, Section 708 – "Paints".

SECTION 05 04 00

MISCELLANEOUS STEEL

GENERAL

1.1 SUMMARY

- A. Section Includes: Supply, fabrication, and installation of miscellaneous steel elements.
- B. Related Sections:
 - 1. Section 09900 - Painting and Protective Coatings.

1.2 REFERENCES

- A. Reference Standards: Latest edition as of Specification date.
 - 1. American Institute of Steel Construction (AISC):
 - a. 303: Code of Standard Practice for Steel Buildings and Bridges.
 - 2. ASTM International:
 - a. A36/A36M: Standard Specification for Carbon Structural Steel.
 - b. A53/A53M: Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.
 - c. A276: Standard Specification for Stainless Steel Bars and Shapes.
 - d. A500/A500M: Standard Specification for Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes.
 - e. A992/A992M: Standard Specification for Structural Steel Shapes.
 - f. E164: Standard Practice for Contact Ultrasonic Testing of Weldments.
 - g. E165: Standard Practice for Liquid Penetrant Examination for General Industry.
 - 3. American Welding Society (AWS):
 - a. D1.1/D1.1M: Structural Welding Code - Steel.
 - b. D1.6/D1.6M: Structural Welding Code - Stainless Steel.
 - 4. SSPC: The Society for Protective Coatings:
 - a. Paint 30: Weld-Through Inorganic Zinc Primer.
 - b. PS Guide 22.00: Guide for Selecting One-Coat Preconstruction or Prefabrication Painting Systems.
 - c. SP 10/NACE No. 2: Near-White Blast Cleaning.

1.3 COORDINATION

- A. Furnish anchorage items to be embedded in or attached to other construction without delaying Work. Provide setting diagrams, sheet metal templates, instructions, and directions for installation.

1.4 SUBMITTALS

- A. Product Data: For shop paint, indicating compliance with shop coating specifications.
- B. Shop Drawings: Showing fabrication and erection details of steel elements including:

1. Details of cuts, connections, splices, camber, holes, and other pertinent data.
 2. Embedment details.
 3. Weld sizes, lengths, and types by standard AWS symbols, indicating shop or field welds.
 4. Type, size, and length of bolts; pretensioned or slip-critical bolted connections; and shop or field bolted.
- C. Certificates: For welding operators to be employed in Work, indicating having satisfactorily passed AWS qualification tests within previous twelve (12) months. If re-certification of welders is required, retesting will be Contractor's responsibility.
1. Names and qualification certificates for welding operators designated to perform each type of welding for Project.
- D. Test Reports: For steel elements, signed by steel manufacturers, certifying compliance with requirements; include physical properties and chemical analysis.
- E. Welding Procedure Specification (WPS): For each weld type and position as required by AWS D1.1/D1.1M.
1. Supplemental welding procedures, if required.
 2. Report of satisfactory qualification testing for each non-prequalified welding procedure.

1.5 QUALITY ASSURANCE

- A. Welding: AWS D1.1/D1.1M; use prequalified welding materials and processes and welders.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Deliver materials to site, store, and handle to avoid damage to elements or coating.
- B. Store elements off ground and spaced with pallets, dunnage, or other supports and spacers. Store to permit easy access for inspection and identification.
- C. Limit stored materials on structures to safe loading capacity of structure at time materials are stored, and to avoid permanent deck deflection.

1.7 PROJECT CONDITIONS

- A. Verify existing dimensions and details prior to start of miscellaneous steel Work. Notify Architect/Engineer of conditions found to be different than those indicated in Contract Documents. Architect/Engineer will review situation and inform Contractor and Installer of changes.
- B. Comply with Owner's limitations and restrictions for site use and accessibility.
- C. Handle and install materials in strict accordance with safety requirements required by local, state, and federal rules and regulations.

1.8 CHANGES IN WORK

- A. During rehabilitation Work, existing conditions may be encountered which are not known or are at variance with Contract Documents. Such conditions may interfere with Work and may consist of damage or deterioration of substrate or surrounding materials that could jeopardize integrity or performance of Work.

1. Notify Architect/Engineer of conditions that may interfere with proper execution of Work or jeopardize performance of Work prior to proceeding with Work.

PRODUCTS

1.9 STEEL ELEMENTS

- A. Plates and Bars: ASTM A36/A36M.
- B. Hollow Structural Sections (HSS): ASTM A500/A500M, Grade B.

1.10 AUXILIARY MATERIALS

- A. Welding Electrodes: Comply with AWS requirements and approved welding procedure specifications.
- B. High-Strength Bolts: ASTM A325, Type 1, plain finish.
 1. Nuts: ASTM A563; Grade C, C3, D, DH, or DH3; plain finish.
 2. Washers: ASTM F436, Type 1, plain finish.
- C. Shop Coating: Shop applied coating in accordance with Specifications Section 09900.

1.11 FABRICATION

- A. Fabricate and assemble in shop to greatest extent possible. Comply with requirements of AISC Code of Standard Practice, including tolerances.
 1. Cut, drill, and punch elements cleanly and accurately.
 - a. Remove burrs.
 2. Cutting: Perform thermal cutting by machine to greatest extent possible. Grind thermally-cut edges to be welded to comply with requirements in AWS D1.1/D1.1M.
 3. Cold-Formed Bending: Use smallest radius possible without causing grain separation or otherwise damaging material, with maximum radius of two (2) times nominal material thickness.
 - a. Inspect bends for cracking by dye-penetrant procedure in accordance with ASTM E165.
 4. Holes: Fabricate bolt holes, holes required for securing other work to steel elements, and holes for other work to pass through steel elements.
 - a. Cut, drill, or punch holes cleanly and accurately, perpendicular to steel surfaces. Do not thermally cut holes or enlarge holes by burning.
 5. Grind edges to be coated to minimum radius of about 1/32" unless otherwise indicated.
 6. Exposed Elements: Fabricate with accurate angles and surfaces and straight edges.
 - a. Fabricate seams and other connections that will be exposed to moisture in manner to exclude moisture. Provide weep holes where moisture may accumulate.
 - b. Remove sharp or rough areas on exposed surfaces.
 7. Exposed Architectural Elements:
 - a. Fabricate with exposed surfaces smooth, square, and free of surface blemishes including pitting, rust, scale, seam marks, roller marks, rolled trade names, and roughness.

- b. Remove blemishes by filling or grinding or by welding and grinding, before cleaning, treating, and shop priming.
 - c. Provide straight and true elements. Straighten as required to provide uniform, square, and true elements that satisfy specified tolerances.
 - d. Weld exposed joints continuously and grind smooth.
 - 8. Accurately finish ends of columns and other members transmitting bearing loads.
 - 9. Mark and match-mark pieces for field assembly.
- B. Welded Connections, Steel: Comply with AWS D1.1/D1.1M for welding procedure specifications, tolerances, weld appearance, weld quality, and for methods used in correcting welding Work.
- 1. Use AWS-qualified welds and AWS-qualified welders for steel.
 - 2. Remove dirt, grease, oil, and foreign matter by pickling, degreasing, machining, or grinding, prior to welding.
 - 3. Do no preheat base metal. Do not exceed interpass temperature of 600° F.
 - 4. Use materials and methods that minimize distortion of welded pieces and to develop strength and corrosion resistance of base metals.
 - a. Obtain fusion without undercut or overlap.
 - b. Fill craters at beginning and end of weld beads.
 - c. Remove welding flux immediately.
 - 5. Verify that weld sizes, fabrication sequence, and equipment used for exposed architectural elements will limit distortions to allowable tolerances. Prevent weld show-through on exposed surfaces.
 - a. Finish exposed welds and surfaces smooth and blended so no roughness shows after finishing and contour of welded surface matches that of adjacent surface.
 - 1) Grind butt welds flush.
 - 2) Grind or fill exposed fillet welds to smooth profile.
 - 6. Inspect completed welds by ultrasonic examination in accordance with ASTM E164; use NDT Level II inspector.
 - 7. Clean welds thoroughly with stainless steel brush.
 - 8. Inspect completed welds by ultrasonic examination in accordance with ASTM E164; use NDT Level II inspector.
- C. Shop paint steel surfaces in accordance with requirements of Specification Section 09900 Painting and Protective Coatings.

EXECUTION

1.12 EXAMINATION

- A. Examine substrates and conditions with Installer for compliance with requirements and other conditions affecting installation or performance of miscellaneous steel elements.
- 1. Verify elevations of bearing surfaces and locations of anchor rods, bearing plates, and other embedment's.
 - 2. Ensure that work done by other trades is complete and ready for miscellaneous steel Work.
 - 3. Verify that areas and conditions under which miscellaneous steel Work is to be performed permit proper and timely completion of Work.
 - 4. Notify Architect/Engineer in writing of conditions which may adversely affect installation or performance of miscellaneous steel elements and recommend corrections.

5. Do not proceed with miscellaneous steel Work until adverse conditions have been corrected and reviewed by Architect/Engineer.
6. Commencing miscellaneous steel Work constitutes acceptance of Work surfaces and conditions.

1.13 PROTECTION

- A. Take precautions to ensure safety of people, including building users, passers-by, and workmen, and animals, and protection of property, including adjacent building elements, landscaping, and motor vehicles.
- B. Prevent construction debris, coatings, and other materials from coming into contact with pedestrians, motor vehicles, landscaping, buildings, and other surfaces that could be harmed by such contact.
- C. Protect paving and sidewalk, and adjacent building areas from mechanical damage due to scaffolding and other equipment.
- D. Limit access to Work areas.
- E. Erect temporary protective canopies, as necessary, over walkways and at points of pedestrian and vehicular access that must remain in service during Work.
- F. Assume responsibility for injury to persons or damage to property due to Work, and remedy at no cost to Owner.

1.14 GENERAL INSTALLATION

- A. Install in accordance with requirements of AISC Code of Standard Practice.
- B. Provide temporary support for elements during installation to keep elements secure, plumb, and in alignment. Remove support when installation is complete.
- C. Base and Bearing Plates:
 1. Clean bearing surfaces and bottom surface of plates of bond-reducing materials. Roughen bearing surfaces prior to setting plates.
 2. Accurately set plates with wedges, shims, or setting nuts as required.
 3. Accurately position and plumb supported member.
 4. Snug-tighten anchor rods.
 5. Weld plate washers to top of base plate.
 6. Promptly pack grout solidly between bearing surfaces and plates so no voids remain.
 - a. Do not remove wedges or shims. Cut off protruding portions flush with edge of plate before packing with grout.
 - b. Comply with grout manufacturer's written installation instructions.
 - c. Neatly finish exposed surfaces; protect grout and allow to cure.
- D. Position steel elements accurately in location, alignment, and elevation indicated; with edges and surfaces level, plumb, true, and free of rack.
 1. Maintain erection tolerances specified by AISC Code of Standard Practice.
 2. Perform cutting, drilling, and fitting required to install steel elements.
- E. Align and adjust various members forming part of assembly before permanently fastening.

1. Before assembly, clean bearing surfaces and other surfaces that will be in permanent contact with elements.
 2. Perform necessary adjustments to compensate for discrepancies in elevations and alignment.
 3. Make allowances for difference between temperature at time of installation and mean temperature when structure is completed and in service.
- F. Splice members only where indicated.
- G. Do not use thermal cutting during erection unless approved by Architect/Engineer.
- H. Do not enlarge unfair holes by burning or with drift pins. Ream holes that must be enlarged.
- I. Field Bolting: Install snug-tight bolts according to RCSC Specification for type of joint specified.
- J. Welded Connections, Steel: Comply with AWS D1.1/D1.1M for welding procedure Specifications, tolerances, weld appearance, weld quality, and for methods used in correcting welding Work.
1. Use AWS-qualified welds and AWS-qualified welders for steel.
 2. Remove paint, dirt, grease, oil, and foreign matter from areas to be welded prior to welding.
 3. Do no preheat base metal. Do not exceed interpass temperature of 600° F.
 4. Perform welding in manner to prevent distortion of welded pieces and to develop strength and corrosion resistance of base metals.
 - a. Obtain fusion without undercut or overlap.
 - b. Fill craters at beginning and end of weld beads.
 - c. Remove welding flux immediately.
 5. Verify that weld sizes, fabrication sequence, and equipment used for architecturally exposed structural steel will limit distortions to allowable tolerances.
 6. Prevent weld show-through on exposed steel surfaces.
 7. Finish exposed welds and surfaces smooth and blended so no roughness shows after finishing and contour of welded surface matches that of adjacent surface.
 - 1) Grind butt welds flush.
 - 2) Grind or fill exposed fillet welds to smooth profile.
 8. Clean welds thoroughly with steel brush.
 9. Clean welds thoroughly with stainless steel brush.
- K. Clean and paint steel elements per Section 09 97 13.

1.15 FIELD QUALITY CONTROL

- A. Testing Agency: Owner will engage qualified independent testing and inspecting agency to inspect field welds.
- B. Welded Connections: Field welds will be visually inspected according to AWS D1.1/D1.1M.
- C. Correct deficiencies in Work that inspection and testing indicate do not comply with Contract Documents.

1.16 CLEANING

- A. After completing miscellaneous steel Work:
 - 1. Clean soiling from adjacent surfaces. Exercise care to avoid scratching or damage to surfaces.
 - 2. Repair surfaces stained, marred, or otherwise damaged during miscellaneous steel Work.
 - 3. Clean up debris and surplus materials and remove from site.

END OF SECTION

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SECTION 09 96 00

HIGH PERFORMANCE COATINGS

Fence Painting of Sections

PART 1 GENERAL

1.01 SUMMARY

- A. This Specification is intended to be used for the coating repairs that involve repairing of existing ornamental fences sections and post during coating.
- B. This specification describes the Scope of Work associated with the removal of surface contaminants, corrosion, and existing coatings and the application of new coating systems for the following areas:
 - 1. Phase No.1 – Base Bid- All of the existing fence sections to be shop cleaned, and fence post to be field cleaned and repainted. Remove and shop clean and repaint supports and guardrail sections.
 - 2. Phase No.1, Option No.1- All of the existing fence sections that were removed to be welded per specifications instead of chalking/filler.
 - 3. Phase No.1 – Alternate No.1- All of the existing fence sections to be removed and disposed of. All fence bases to be field cleaned and painted. Installation of new painted architectural fence sections. Field clean and repaint supports and guardrail sections.

1.02 REFERENCES

- A. ASTM International (ASTM)
 - 1. ASTM A36/A36M – Standard Specification for Carbon Structural Steel.
 - 2. ASTM D16 – Terminology Relating to Paint, Varnish, Lacquer, and Related Products.
 - 3. ASTM D4417 - Standard Test Methods for Field Measurement of Surface Profile of Blast Cleaned Steel.
 - 4. ASTM D4541 – Test Method for Pull-Out Strength of Coatings Using Portable Adhesion-Testers.
- B. Code of Federal Regulations (CFR)
 - 1. 40 CFR 59, Subpart D (EPA Method 24) – Volatile Organic Compounds (VOC) content limitations.
 - 2. 29 CFR 1910.1000-1500, Subpart Z - “Toxic and Hazardous Substances”.
 - 3. 29 CFR 1910.134 – Toxic exposure limits.
- C. Federal Standard 313 - “Material Safety Data Sheets - Preparation and Submission”.
- D. The Society for Protective Coatings (SSPC).

1. SSPC-PA 1 – Shop, Field, and Maintenance Painting of Steel
 2. SSPC-PA 2 – Measurement of Dry Coating Thickness with Magnetic Gages.
 3. SSPC-SP 1 – Solvent Cleaning.
 4. SSPC-SP 10 - Near-White Blast Cleaning.
 5. SSPC SP11 - Power Tool Cleaning to Bare Metal.
 6. SSPC-Vis 1 – Guide and Reference Photographs for Steel Surfaces Prepared by Dry Abrasive Blast Cleaning.
- E. International Organization for Standardization (ISO)
1. ISO 8502-3 - Preparation of steel substrates before application of paint and related products - Tests for the assessment of surface cleanliness – Part 3: Assessment of dust on steel surfaces prepared for painting (pressure-sensitive tape method)

1.03 DEFINITIONS

- A. ASTM D16 – Terminology Relating to Paint, Varnish, Lacquer, and Related Products.
- B. Contractor: The specific painting contractor responsible for the Work. Surface preparation and coating application shall be done by the same contractor.
- C. Contractor Supervisor: The on-site project foreman for the Contractor.
- D. Painter: Refers to the individual workers conducting the Work.
- E. Inspector: Independent coatings inspector.
- F. Manufacturer: manufacturer of coating products used to perform Work.

1.04 SUBMITTALS

- A. Before Work begins, submit to The Cities for approval the following information pertaining to materials to be provided:
 1. List of materials to be provided, identified by manufacturer's name, product name or stock number, and indicating surfaces to which they are to be applied. Maintain one (1) copy of list where Work is being performed.
 2. Manufacturer's product data sheets (including printed statement of VOC content and chemical components) and manufacturer's safety data sheets for coatings and related materials, and other potentially hazardous materials as defined in Federal Standard 313.
 3. Manufacturer's mixing, handling, and application instructions for coatings and related materials.
 4. Executable schedule indicating significant dates associated with the installation of coating, such as delivery of materials, surface preparation, mockup installation, completion of field Work, finish completion, etc.
 5. Color plate samples of all specified coating colors. Color plate samples shall consist of all layers of coating in the application color intended by the manufacturer for use at each specified location (i.e. primer coat, intermediate coat, and finish coat, as applicable)

- B. Minimum Contractor Qualifications Information:
1. List of five (5) projects similar to Work specified in this Section, completed by the coating applicator in the last five (5) five years. Similar projects are considered as those projects that have comparable scale, coating systems, substrates, and substrate conditions, and are located in comparable environmental conditions. For each project reference submitted, include project description, contact information including address and telephone number, surface area coated, cost of the Work, description of coating system used, the substrate, the substrate condition, and the environmental conditions.
 2. Documentation that Contractor has previously applied the specified manufacturer's coating system or similar systems in production quantities similar to this Project. Include list of such projects with description, surface area coated, coating system description, and contact person including address and telephone number.
 3. Evidence of qualifications of applicator, supervisor(s), production personnel, and quality control representative(s) as required in Section 1.05 Quality Assurance.
- C. Coating manufacturer information for Field-Applied Coatings:
1. Manufacturer's statement of maximum permissible surface chloride concentration on substrate prior to coating.
 2. Decoding information so field personnel can verify shelf lives and other coded information.
 3. Provide a letter certifying products are free of, or do not exceed limits allowed by OSHA, local, state, or federal regulations for, asbestos, lead, chromate, cadmium, arsenic, selenium, silver, barium, and mercury.
 4. Provide a letter certifying that the coating materials comply with the VOC requirements when calculated according to 40 CFR 59, Subpart D (EPA Method 24).
 5. Pinhole repair procedure for approval by The Cities.
 6. Repair procedures for damage, defects, or other non-conformances in the coating for approval by the Engineer. Repair procedure shall comply with the most stringent requirements of SSPC-PA 1 and the manufacturer's written recommendations. Repairs to the coating system must result in an acceptable, uniform gloss and color on visible surfaces.
- D. Abrasive Supplier:
1. Documentation that the abrasives contain no silica sand, free silica in excess of one-half percent (0.5%), and are free from contaminants such as excessive fine particles, paint, oils, moisture, and heavy metals, and toxic material prohibited by OSHA or federal, state, or local regulations.
 2. Manufacturer's product data sheets and material safety data sheets for abrasive media.
- E. List of approved application equipment to be used on the Project.
- F. Safety Plan: Submit to The Cities a written plan of action that covers operational requirements for safe application of coatings, means of protection of surrounding areas from overspray, rebound, etc., handling, storage, and disposal of

hazardous and toxic materials. Plan requirements will comply with applicable government regulations and most stringent requirements of the following:

1. Manufacturer's Material Safety Data Sheets.
2. Toxic material exposure limits, per 29 CFR 1910.1000 and 29 CFR 1910.134.
3. Provide adequate ventilation.
4. Protection of pedestrians and vehicles along 144th Avenue and I-25 expressway.

G. Environmental Control Plan: Submit to The Cities a plan of action for a temporary enclosure to:

1. Contain dust, spent abrasives, and paint.
2. Control the local environment (temperature, humidity, ventilation, etc.) for preparation of surfaces and application and cure of coatings, and to prevent the deposition of water or other contaminants on the prepared surface before coating application, on coated surfaces during the coating application, and on surfaces of the complete coating system until cured.

H. Protection Plan: Submit to The Cities a plan of action for environmental monitoring, testing, collection, and disposal of debris from surface preparation and painting.

I. Traffic Control Plan: Obtain from The Cities Traffic Department the proper traffic control permits. Submit to The Cities a schedule and plan of action for traffic control on I-25 Expressway and 144th Avenue roadways as required to complete the Work. Lane closure of one sidewalk and one lane of 144th Avenue will be permitted by The Cities typically from 8-am to 4:30pm daily. One (1) sidewalk must remain open at all times; however, this may be achieved with the use of temporary fencing or other means. The Contractor shall submit a plan for pedestrian traffic control to The Cities for review. Any lane closures of I-25 Expressway including necessary permits must be obtained from CDOT Region 6. Submit evidence of permit prior to starting any Work that may involve traffic control. Contractor should be aware that lane closures on I-25 may only be permitted at night.

J. Prior to any Work, submit a written inspection plan for field coating, listing inspection hold points, test methods, and acceptance criteria for each procedure in each phase of the Project Work. Plan shall include list of testing and inspection equipment to be used, and shall indicate the number and frequency of site visits by manufacturer's technical representative. The plan description shall also include:

1. Sample of daily quality control log.
2. Pre-surface preparation procedures for obvious defects and contamination to be removed in accordance with the specified preparation.
3. Measurement of ambient conditions of temperature, humidity, and dew point.
4. Evaluation of compressor equipment to verify cleanliness and avoid contamination.
5. Evaluation of surface preparation and profile for conformance with standards.
6. Monitor cleanliness and time between surface preparation and coating. Surfaces shall be inspected for cleanliness before application of coatings.

7. Observation of coating mixing and application for conformance to manufacturer's instructions and mockup(s).
 8. Determination of dry film thickness of each coat applied for conformance to manufacturer's instructions and mockup(s).
 9. Monitor cleanliness and time between coats. Each coat shall be inspected for cleanliness before application of subsequent coats.
- K. The Contractor shall warrant the coating Work for a period not less than two (2) years for items coated in-situ, and five (5) years for items removed and coated in a shop. Warranty shall include, but is not limited to, peeling, checking, cracking, rust (ASTM D610 - Anything other than Level 9 or Level 10 is not acceptable and will be considered failure), bubbles, or any other defects associated with product application and surface preparation.
- L. The paint Manufacturer shall supply a warranty for a period of five (5) years that the coating will not: check, crack, blister, peel, delaminate, excessively chalk, or allow exterior water to penetrate the coating. Chalking shall be evaluated in accordance with ASTM D4214 and chalking less than a rating of No. 7 shall be considered a defect and must be repaired. Blisters shall be evaluated using ASTM D714 and blisters having a rating less than No. 10 shall be considered a defect and must be repaired. Coating will not change color more than 12 ΔE CIE units as determined in accordance with ASTM D2244 by comparing the affected exposed coating cleaned with water and a soft cloth with unexposed original project color standards maintained by the manufacturer and the State [based on an average of five (5) readings per 100 sf].

1.05 QUALITY ASSURANCE

- A. The Cities may at their discretion hire a Coating Inspector.
- B. The Cities and the Engineer will periodically observe progress, evaluate quality, and perform tests of the coatings. All direction or modification with regards to the specification or performance of the Work shall be made by The Cities. While representatives of the coating manufacturer may be present at the site, they do not have the authority to modify or dictate changes to the contract documents or performance of the Work. Coating manufacturer shall prepare written reports with any observations or recommendations.
- C. General
1. Review Specifications for requirements affecting Work. Conflicts between these Specifications and coating manufacturer's requirements or specifications, or other pertinent specifications, shall be immediately brought to the attention of Engineer. The more stringent requirement shall govern the Work unless approved in writing by The Cities.
 2. Work in-situ shall be subject to inspection testing. Work found to be unacceptable shall be replaced with new, acceptable work, at no cost to The Cities.
 3. Only prepare enough surface area that can meet the surface preparation requirements and be coated in the same day.
 4. If a temporary enclosure around the Work area is needed, provide lighting of at least 25' candles on the surface to be coated.

5. The Contractor is completely responsible for quality control regardless of whether or not an independent inspector is present.

D. Manufacturers

1. Manufacturers' technical representatives may perform site visits throughout the Project including:
 - a. Observations for conformance with requirements, which may include:
 - 1) Observing surface preparation.
 - 2) Measuring surface profile or observation of surface profile measurement.
 - 3) Observing coating application.
 - 4) Measuring wet film thickness or observing wet film thickness measurement.
 - 5) Measuring dry film thickness of cured coating or observing dry film thickness measurement.
 - 6) Measuring adhesion of cured coating or observing dry film thickness measurement.
 - b. As necessary to advise the Contractor of procedures and precautions for use of the materials.
2. Manufacturers' representatives may perform a final inspection of completed Work.
3. Manufacturers' representative shall provide a formal written report following each site visit.

E. Contractor Qualifications:

1. Contractor shall have a dedicated Field Quality Control Representative on site during all stages of the Work.
2. Contractor Supervisor shall be on site during all preparation and coating Work.
3. Field Contractor Quality Control Representative shall be on site at all times during surface preparation and coating. This shall be the same individual(s) identified in the Contractor qualification submittals for the duration of the Work.
4. Contractor shall coordinate with the coating manufacturers to ensure that a qualified technical representative is present for the coating system Work.
5. Contractor shall have experience with similar projects for the successful field application of coating to structural steel.
6. Contractor shall be approved in writing for application of the coating system by the coating manufacturer.

F. Field Contractor Quality Control Representative:

1. A minimum of ten (10) years of experience in the quality control of preparation and coating of structural steel.
2. Shall be NACE Level 3 Certified.

G. Contractor Supervisor Qualifications.

1. A minimum of ten (10) years of experience in the preparation and coating of structural steel.

2. A minimum of three (3) years of experience in supervising this type of Work. Apprentices shall be under direct supervision of an experienced supervisor.
- H. Painter Qualifications
1. A minimum of five (5) years of experience in the preparation and coating of structural steel.
- I. Field Quality Control
1. Do not apply any coatings when measurements, observations, readings, etc. are not in conformance with manufacturer's written instructions.
 2. Submit daily inspection reports which include day, time, and location of all quality control tests specified:
 - a. Location of structure.
 - b. Description of Work performed.
 - c. Inspector's Name.
 - d. Project Number.
 - e. Paint removal method and times of paint removal.
 - f. Coatings used.
 - g. Batch numbers of coatings.
 - h. Batch number of thinners.
 - i. Hold point inspections completed.
 - j. Inspection equipment calibrated.
 - k. Non-conformance and corrective actions.
 3. Measure and record on daily inspection reports:
 - a. Pre-surface preparation for obvious defects and contamination to be removed in accordance with the specified preparation.
 - 1) Profile
 - a) The profile shall be measured using replica tape and measured with a spring micrometer, ASTM D4417 Method C.
 - b) Where the steel is pitted, measure profile on ASTM A36 steel coupons (minimum size) ¼ x 6 x 6" temporarily fixed to the steel stairs to be abrasive blasted. Blast the coupon along with the steel stairs. The profile on the coupons shall meet the requirement for surface profile.
 - c) Measure profile of the existing structural steel after abrasive blasting.
 - 2) Frequency of measuring profile is as follows:
 - a) Every new batch or mix of abrasive.
 - b) At least once at the beginning of each shift by each blaster.
 - c) As required by the Engineer.
 - b. Evaluate compliance of surface preparation with SSPC SP10 using visual guide SSPC-Vis 1.
 - c. SSPC SP11 may be used to prepare isolated inaccessible areas if necessary after review and written approval by Engineer.
 - d. A minimum of two (2) surface chloride tests shall be performed at a randomly selected area every 1000 sf of prepared surface. Include testing of pitted areas when present; otherwise, test locations shall be selected that are representative of the surface as a whole. When any one (1) chloride measurement is not in compliance with the requirements of the specification, that test area shall be considered unacceptable. Apply

Chloride Removal Procedures to the entire test area, and when completed, the surface chloride concentration shall be re-measured.

- e. Surface temperature shall be taken using a surface thermometer prior to the application of any coating and at least once every two (2) hours during application. No coating shall be applied if temperature is outside the range provided in the manufacturer's written instructions.
 - f. Air temperature, relative humidity, and dew point before application of any coating and at least once every two (2) hours during application. If readings are not in conformance to manufacturer's written instruction, no coating shall be conducted.
 - g. Observation of coating mixing and application for conformance to manufacturer's instructions.
 - h. Test compressed air to ensure no moisture or water contamination. Use a clean white piece of blotter paper held approximately 18" from the air supply downstream of the moisture and oil separators. The air is permitted to blow on the blotter paper for three (3) minutes and is then inspected for signs of detrimental amounts of moisture or oil contamination. If there is no discoloration, the air is acceptable. If moisture or oil is visible, the air shall not be used. Check air at least once every four (4) hours.
 - i. Painter shall confirm wet film thickness of each coating application taken randomly using a notched gage. Wet film notch gages do not accurately measure the thickness of zinc-rich primers, since the zinc beneath the notches is not consistently displaced. For the zinc-rich primer and all coatings, the wet film gage may be used as a rough guide, but the dry film thickness requirements must still be met.
 - j. Measure dry film thickness in accordance with SSPC PA-2.
 - k. Conduct pinhole and holiday detection tests after final cure of the finish coating. Use low voltage wet sponge detector or other apparatus approved by the coating manufacturer. Test ten percent (10%) of each representative surface type (picket, rail, post).
 - l. Test steel surfaces prepared for painting for cleanliness per ISO 8502-3 immediately prior to coating application. Dust quantity rating shall be one (1) or better. Apply pressure to the tape in accordance with ISO 8502-3 Paragraph 6.2 a). Apply immediately prior to the application of each coating layer every 100 sf.
 - m. Use same model pull-off tester (ASTM D4541 Type VI) for comparison of adhesion data throughout entire Project unless directed otherwise by Owners.
 - n. Repair all damaged to coating from tests performed by Contractor, Coating Manufacturer, Engineer and The Cities.
4. The Field Contractor Quality Control Representative shall, at a minimum, have the following inspection equipment on site and in good working order:
- a. Electronic dry film thickness gage capable of measuring thickness in accordance with SSPC PA-2.
 - b. Replica tape in a range for the required blast profile and spring micrometer.
 - c. Tooke gage.
 - d. SSPC-Vis1.
 - e. Surface Chloride Test Kits in ample supply to measure surface chloride concentration in the prescribed frequency.

- f. Surface temperature thermometers.
 - g. Air temperature, relative humidity, and dew point meter(s).
 - h. Nordson Wet film coating thickness gages.
 - i. Pressure sensitive tape for testing in accordance with ISO 8502-3.
 - j. Low voltage holiday detector.
 - k. Camera.
 - l. Blotter paper.
5. Schedule hold points between all major operations for inspection. Document the following in daily inspection reports:
- a. Surface preparation.
 - b. Primer coat inspection.
 - c. Intermediate coat inspection.
 - d. Finish coat inspection.
 - e. Corrective action.

J. Mock-up

1. Prior to the start of the Project, the Contractor shall prepare a mock-up of the specified surface preparations and coating applications, in the field at one (1) post and one (1) guardrail at a location selected by The Cities and the Engineer.
 - a. Mockup
 - 1) Prepare surfaces by abrasive blasting as required.
 - 2) Apply coatings to prepared surfaces as required.
 - b. Size and location of the mock-up shall be as follows:
 - 1) One (1) existing support post (field mockup).
 - 2) One (1) existing guardrail (field mockup).
 - 3) One (1) existing removable fence section (shop mockup).
 - c. Conduct quality control testing prior to, during, and after surface preparation and coating application. Permit Engineer and coating manufacturer's technical representative to perform surface chloride measurements on mockups prior to proceeding with overall Work. Results of tests will be evaluated by the Engineer.
 - d. Surface Chloride Measurements: Measure surface chloride concentration prior to and after surface preparation in accordance with quality assurance requirements of this Section.
2. Additional mockups shall be made until acceptable results are achieved. Adjustments to application of products shall be made in accordance with limits defined in manufacturer's recommendations upon approval of the Engineer.
3. Mockups shall be allowed to cure for not less than seven days prior to testing and evaluation by Engineer. With the approval of the Engineer Work can proceed prior to the final mockup evaluation.
4. Adhesion tests will be performed in accordance with ASTM D4541. Results of tests will be evaluated by the Engineer.
5. Coating manufacturer's technical representative shall review surface preparation and coating mockups on site and in the shop during installation.
6. Coordinate the mockup schedule with the Engineer. Mockup shall not be conducted until all of the environmental and operational controls are in place. The mockup may be the initiation of coating. Mockup shall be protected and retained during the Work to serve as a standard for full-scale Work. Upon

completion of Work, the mockup may be incorporated into the full-scale Work.

7. Approval of mockup does not constitute approval of deviations from the Contract Documents unless Engineer specifically approves such deviations in writing.

1.06 BRIDGE PEDESTRIAN FENCE AND GUARDRAILS (Off site surface preparation and painting)

- A. Remove existing fence sections and transport to shop for surface preparation and repairs.
- B. Install temporary fence to protect pedestrians and travelling public while repairs are being made.
- C. Shop surface preparation shall be performed as indicated herein.
- D. Apply in shop all coating systems on each of the removable pedestrian fence sections and fence support posts and guardrails (see Plans for locations and geometry).
- E. Prepare surfaces and apply coatings as prescribed by this Scope of Work. Surface preparation shall include the following:
 1. Conduct quality control testing on prepared surface prior to and after chloride removal procedure including chloride measurements.
 2. Perform chloride removal procedure as required until surface chloride concentrations are below the manufacturer's maximum permissible chloride level.
- F. Allow the Engineer to perform field and shop inspection of surface preparation prior to coatings
- G. Allow Engineer to perform testing of coatings and Contractor shall repair test areas damaged by testing.
- H. Coating manufacturer shall review surface preparation and coating applications on site during installation.
- I. Coating manufacturer may perform or observe tests of the coatings.

1.07 DELIVERY, STORAGE, AND HANDLING (repaired sections)

- A. Packing, Shipping, Handling, and Unloading: Deliver repaired sections and materials to job site in original, new, and unopened packages and containers bearing the manufacturer's name and label and batch numbers. The Contractor shall be on-site and sign for all deliveries made to the Project site. The Cities will not sign for or receive shipments for the Contractor.
- B. Acceptance at Site: Damaged or deteriorated materials shall be clearly identified and not used on this Project. Promptly remove rejected and non-complying materials from the premises.

- C. Storage and Protection: Store materials in tightly closed containers in well-ventilated areas with ambient temperatures continuously maintained at not less than 40°F and not more than 95°F, unless required otherwise by manufacturer's instructions. Storage area shall be protected from exposure to direct sunlight, heat, sparks, flames, and weather.
 - 1. Maintain containers in clean condition, free of foreign materials and residue.
 - 2. Store containers so manufacturer's labels are clearly displayed.
 - 3. Remove rags and waste from storage areas daily.
- D. Waste Management and Disposal: Comply with applicable safety codes and regulations that govern the Work, including Occupational Safety and Health Administration (OSHA), Owners OSHL (Occupational Safety and Health Law), and Environmental Protection Agency (EPA) regulations covering waste and wastewater disposal and VOC content.

1.08 PROJECT CONDITIONS

- A. Equipment, material, and appliances required for completion of Work, shall be so located and operated as to provide for maximum efficiency, public safety, persons employed at the site, and to prevent damage to new and existing construction, in accordance with the Contractor's safety plan, OSHA, and applicable safety codes and regulations.
- B. Confine operations at designated Project site to areas permitted by laws, permits, contract, and the Contractor's safety plan.
- C. Assume full responsibility for protection and safekeeping of products stored on premises, and for their proper use.
- D. Provide Engineer with access to the Work site, shop and storage areas.
- E. Where conditions are uncovered, which are not anticipated by the Specifications, notify Engineer and The Cities immediately, before resuming the Work.
- F. No coating shall be applied if temperature and/or relative humidity are outside the range provided in the manufacturer's written instructions.
- G. Do not apply coatings in snow, rain, fog, mist; when relative humidity exceeds eighty-five percent (85%), to damp or wet surfaces, or at temperatures less than 5°F above the dew point. Allowable minimum relative humidity shall be determined by the manufacturer.
- H. Do not prepare steel when the surface temperature is less than 5°F above the dew point, or when the relative humidity exceeds eighty-five percent (85%). Surface areas exposed to condensation or moisture prior to receiving primer coat shall be re-prepared.

1.09 JOB SITE REFERENCES

- A. Maintain at least one (1) copy of each referenced standard and this Specification at the job site.

- B. Maintain on site a complete file of MSDS and manufacturer's product and application data sheets for each coating material, thinner, cleaner, and solvent intended for use.

1.10 REGULATORY REQUIREMENTS

- A. Conform to all federal, state, and local ordinance regarding the use of, exposure to, and disposal of coatings, coating system, solvents, thinners, cleaners and related materials
- B. The Contractor shall comply with all federal, state, and local pollution control and health regulations.

1.11 SEQUENCING AND SCHEDULING

- A. Work shall be completed within Specifications as soon as reasonably possible.
- B. Schedule steel preparation and painting so that dust and other contaminants from the preparation process will not fall onto uncured, newly painted surfaces.
- C. Protect areas not to be coated.
- D. Prepare substrate as required
- E. Apply coating as required.
 - 1. Conduct necessary quality control tests and inspections at hold points.
 - 2. Document surface preparation and coating application in daily inspection log.
- F. Remove protection.

PART 2 PRODUCTS

2.01 STEEL COATINGS, GENERAL

- A. Material Compatibility:
 - 1. Provide materials for use within each coating system that are compatible with one (1) another and substrates indicated, under conditions of service and application as demonstrated by manufacturer, based on testing and field experience.
 - 2. Provide products of same manufacturer for each coat in coating system.
- B. Paint Colors: Finish coats shall match existing color. Submit Sample for approval. Use Federal Standard 595B Color No. 20227 as basis to develop matching color.

2.02 SURFACE CHLORIDE TEST KIT

- A. Surface Chloride Test Kit:
 - 1. Chlor*Test, manufactured by Chlor*Rid International, Inc. PO Box 908, Chandler Arizona (800)422-3217 www.chlor-rid.com, or approved equal.
 - 2. Approved equal shall demonstrate a retrieval efficiency of at least as seventy percent (70%), as tested by an independent laboratory retained by and paid for by the manufacturer.

2.03 SALT REMOVER

- A. Surface Chloride Removal Product (Salt Remover): Chlor*Rid, manufactured by Chlor*Rid International, Inc PO Box 908, Chandler, Arizona. (800) 422-3217 www.chlor-rid.com.

2.04 COATINGS

- A. **The Sherwin Williams Company, 15484 College Boulevard, Lenexa, Kansas 66219. Contact: Greg Hansen (303) 893-1303. www.sherwin-williams.com**
1. Surface preparation:
 - a. Prepare surfaces in accordance with SSPC-SP10 Near-White Blast Cleaning.
 - b. Surface Profile: 2.0 to 2.5 mils.
 2. Coatings - Apply coating system in accordance with manufacturer's directions. Follow additional surface preparation recommendations.
 - a. Zinc Primer: Zinc Clad III HS, Organic Zinc-Rich Epoxy Primer, 3.0 – 5.0 mils DFT.
 - b. Epoxy Intermediate Coat: Macropoxy 646 Fast Cure Epoxy, 6.0 mils (minimum) DFT. Provide intermediate stripe coat at welds, corners, crevices, refer to drawing details.
 - c. Polyurethane Finish Coat: Acrolon 218 HS, 3.0 – 6.0 mils DFT
- B. **Tnemec Company, Inc. Contact: David Allen Tnemec, Protective Coatings Intermountain 791 Southpark Drive, Suite 700, Littleton, CO 80120 (303) 431-7334. www.tnemec.com/pcim.**
1. Surface preparation:
 - a. Prepare surfaces in accordance with SSPC-SP10 Near-White Blast Cleaning.
 - b. Surface Profile: 2.0 to 2.5 mils.
 2. Coatings - Apply coating system in accordance with manufacturer's directions. Follow additional surface preparation recommendations.
 - a. Zinc Primer: Tnemec 90-97 Theme Zinc, 2.5 – 3.5 mils DFT.
 - b. Epoxy Intermediate Coat: Series 66 Hi-Build Epoxoline, 4.0-6.0 mils DFT. Provide intermediate stripe coat at welds, corners, crevices, refer to drawing details.
 - c. Polyurethane Finish Coat: Endura-Shield Series 73, 3.0 – 5.0 mils DFT.
- C. **Carboline Coatings, 2150 Schuetz Road, St. Louis, MO 63146. Contact: Bruce Mitchell (503) 703-7228. www.carboline.com**
1. Surface preparation:
 - a. Prepare surfaces in accordance with SSPC-SP10 Near-White Blast Cleaning.
 - b. Surface Profile: 2.0 to 2.5 mils.
 2. Coatings - Apply coating system in accordance with manufacturer's directions. Follow additional surface preparation recommendations.
 - a. Zinc Primer: Carbozinc 859, Organic Zinc-Rich Epoxy Steel Primer, 3.0 – 5.0 mils DFT.
 - b. Epoxy Intermediate Coat: Carboguard 893 SG [Epoxy polyamide with

- corrosion inhibitor], 4.0-6.0 mils DFT. Provide intermediate stripe coat at welds, corners, crevices, refer to drawing details.
- c. Polyurethane Finish Coat: Carbothane 133 LH, 3.0 - 5.0 mils DFT.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Examine substrates and conditions for compliance with requirements and conditions affecting performance of Work.
 1. Atmospheric Conditions: Follow manufacturer's directions for allowable atmospheric conditions. Do not apply coatings if the following variables are likely to exceed or fall short of manufacturer's parameters.
 - a. Measure dew point with a psychrometer or other suitable instrument prior to application. Do not apply if dew point is outside specification requirements.
 - b. Perform surface temperature readings on substrate to receive coating prior to application. Do not apply if surface temperature of steel is outside specification requirements.
 - c. Measure ambient air temperature and relative humidity in area of Work prior to coating application. Do not apply if ambient air temperature and relative humidity is outside manufacturer's parameters.
 2. Verify compatibility with and suitability of substrates, including compatibility with and durability of existing finishes or primers.
 3. Begin coating application only after unsatisfactory conditions have been corrected and surfaces are dry.
 4. Coating application indicates acceptance of surfaces and conditions by the Contractor.

3.02 PREPARATION

- A. Protection (Field)
 1. Protect existing construction and Work in place from damage resulting from operations related to the Work including removals, reinstallation, and the storage, preparation, handling, and application of coating materials.
 2. Exercise caution in performing Work so as not to damage other site elements. Protect the building and site elements from damage.
 3. In areas where coating systems are to be applied, protect surrounding construction, including existing traffic areas, from overspray, drippage, or other effects of coatings.
 4. Materials and items damaged by coating process shall be repaired to the satisfaction of The Cities without additional cost to The Cities.
 5. Protection materials shall be carefully and thoroughly removed upon completion of Work.
 6. Workers, pedestrians, animals, plants, vehicles, other property, etc. - Work required in this Section includes use of chemicals that can harm workers, pedestrians and other persons, animals, plants, and damage vehicles, other property, street furniture, and other persons and objects that are vulnerable to damage by coating operations.
 7. Damage to adjacent property, buildings, vehicles, site features, etc., caused by coating operations shall result in no additional cost or liability to The Cities.
- B. General: (Shop and Field)

1. Protect the existing surfaces of components that are not to be abrasive blasted. Use suitable rigid materials adequate to tightly cover existing surfaces of components and resist the effects of abrasive blasting without damage to the existing surfaces or components.
2. Clean substrates of substances that could impair bond of coatings, including dirt, oil, grease, and incompatible paints and coatings.
3. SSPC-Vis-1 shall be used as a guide to judge abrasive blasted surfaces.
4. Grind all fins, tears, slivers, burs, and welds on any steel surface to receive coating. Reduce sharp edges and corners by grinding.
5. Abrasives shall be clean dry mineral sand, mineral grit or manufactured grit and shall have a gradation that the abrasive will produce a uniform profile.
6. Damaged coating shall be touched up and restored before Initial Acceptance.
7. Chloride Removal Procedure
 - a. Measure Chloride contamination using Surface Chloride Test Kit in accordance with the manufacturer's directions to determine chloride content on prepared surfaces.
 - b. If chloride contamination is greater than manufacturer's maximum permissible surface chloride concentration, the abrasive blast surface preparation procedures shall be reapplied to the area prepared.
 - c. If upon retesting, the surface chloride concentration remains greater than manufacturer's maximum permissible surface chloride concentration, the abrasive blast surface preparation procedures shall be reapplied to the area prepared.
 - d. If upon retesting the surface chloride concentration remains greater than manufacturer's maximum permissible surface chloride concentration, pressure wash surface at three thousand (3,000) to five thousand (5,000) psi and allow surface to dry before testing.
 - e. If upon retesting the surface chloride concentration remains greater than manufacturer's maximum permissible surface chloride concentration, pressure wash surface at three thousand (3,000) to five thousand (5,000) psi with Salt Remover in accordance with the Salt Remover manufacturer's directions.
 - f. Notify The Cities of any surfaces where the Surface Chloride Test Kit cannot be properly and adequately applied. The Engineer will provide an alternate procedure with an appropriate factor (multiplier) to be used for the different test method(s).

C. Surface Preparation (Shop and Field)

1. Remove grease, oil, dirt, and other surface contaminants from areas to be painted, in accordance with SSPC-SP 1, prior to abrasive blast cleaning.
2. Prepare surfaces in accordance with SSPC SP10.
3. Isolated in areas which cannot be prepared in accordance with SSPC SP10 may be prepared in accordance with SSPC SP11 upon written approval of Engineer.
4. Determine surface chloride concentration on prepared surfaces, if chloride contamination is greater than manufacturer's maximum permissible concentration remove chloride salts according to the Chloride Removal Procedure.
5. Remove all abrasive, dust, and paint residue from steel surfaces. Surfaces shall be compliant with ISO 8502-3 Level 1 or better.
6. Control environmental conditions and apply primer after Inspector's examination, and before rusting of the surface that could limit adhesion occurs. Only prepare enough surface area that can meet the surface

preparation requirements and be coated in the same eight to ten (8 – 10) hour shift.

3.03 APPLICATION (Shop and Field)

- A. General
 - 1. Apply coatings according to manufacturer's written instructions.
 - 2. Use applicators and techniques as indicated unless specified otherwise by the coating manufacturer: Airless Spray.
- B. The dry film thickness will vary based on the pitted surface of the steel. To achieve the minimum thickness specified, more paint than specified will be required in pitted surfaces.
- C. Follow manufacturer's written instructions for recoat times for all products.
- D. Coating system application shall be pinhole-free. If test confirms the presence of pinholes, repair pinholes and retest. Pinhole and holiday detection tests shall be conducted after final cure of the finish coat.
- E. If undercoats or other conditions are visible through final coat, apply additional touch-ups until cured film has a uniform coating finish, color, and appearance.
- F. Apply coatings to produce surface films without cloudiness, spotting, holidays, laps, brush marks, runs, sags, ropiness, or other surface imperfections. Produce sharp glass lines and color breaks.
- G. All runs and sags should be brushed out immediately. If not, and the coating has cured, the runs and sags shall be removed by sanding and the affected area repainted.
- H. Coating Repairs - Minor coating defects, handling damage and other occasional nonconforming conditions, and destructive test sites shall be repaired in accordance with the approved written coating repair procedure. The Engineer shall have final authority concerning the coating's uniformity and acceptable appearance.

3.04 FIELD QUALITY CONTROL

- A. Allow The Cities and Engineer access, as needed, to observe progress and quality of portion of completed and ongoing Work.
- B. The Cities reserve the right to invoke the following procedure at any time and as often as The Cities deem necessary during the period when coatings are being applied:
 - 1. The Cities may engage services of a qualified testing agency to sample coating material being used. Samples of material delivered to Project site will be taken, identified, sealed, and certified in presence of Contractor.
 - 2. Testing agency may perform tests for compliance with specified requirements.
 - 3. The Cities or the Engineer may direct that coating application stop if test results show that materials being used do not comply with specified requirements. Recoat and tint rejected work at no additional cost to The Cities. If new coating application is incompatible with rejected coated

surfaces, preparation procedures specified in this Section will be performed again at no additional cost to The Cities.

- C. Coating Materials:
 - 1. Allow The Cities and Engineer to collect samples of coating materials, if determined to be necessary. These samples may be laboratory tested to insure that the products used in the coating process are the same as the approved materials.
 - 2. Provide The Cities and Engineer with access to mixed solutions of the coating products at the Site when so requested by the Engineer.
 - 3. Failure to maintain approved chemicals, products, concentrations, etc., shall be reason for the immediate termination of the Contract.

- D. Coating Process:
 - 1. Permit The Cities and Engineer to conduct tests on coated surfaces if deemed necessary by Owner. Tests will be performed to determine if coatings are being applied according to manufacturer's instructions and approved field samples.
 - 2. Recoat areas damages to testing by Contractor, Engineer or The Cities without additional cost to The Cities.
 - 3. Recoat rejected area without additional cost to The Cities if The Cities determine that coated surfaces are noncompliant to manufacturer's instructions and approved field samples.
 - 4. Recoat affected area without additional cost to The Cities if The Cities determine that coating has not been satisfactorily implemented.

3.05 CLEANING

- A. At end of each workday, remove rubbish, empty cans, rags, and other discarded materials from Project site.

- B. Immediately clean up spatter, spillage, and misplaced paint to restore affected area to its original condition. Do not scratch, damage, or deface adjacent finished surfaces.

- C. At completion of Work, promptly remove from Project site materials, supplies, equipment, debris, and rubbish from Work performed under this Section. Leave area of Work in a clean condition acceptable to The Cities.

- D. At completion of construction activities of other trades, touch up and restore damaged or defaced coated surfaces.

- E. Coating damaged during transportation or handling shall be touched up and restored.

- F. Clean equipment according to manufacturer's instructions at the end of a painting application shift.

- G. Thoroughly clean spray-gun components with a compatible solvent. Clean fluid feed lines and gun-tips.

- H. Cleaned spray equipment shall show no oil or water when tested against a clean surface.

3.06 PROTECTION

- A. Protect Work of other trades against damage from coating operation. Correct damage by cleaning, repairing, replacing, and recoating, as approved by the Owner, and leave the site in an undamaged condition.

END OF SECTION

REVISION OF SECTION 509

STEEL STRUCTURES

Section 509 of the Colorado Department of Transportation (CDOT) Standard Specifications for Road and Bridge Construction (2011) shall govern the welding on this Project. Section 509 of the CDOT Standard Specifications for Road and Bridge Construction is hereby revised for this Project as follows:

Subsection **509.01** shall be revised to include the following:

This Work shall include, if directed by The Cities, the shop welding of existing vertical steel pickets to existing horizontal or curved support members. This welding was shown on the original drawings for the bridge but the actual welding did not completely seal the interface between the pickets and horizontal/curved support members resulting in a crevice that retained moisture and facilitated corrosion.

If directed by The Cities, the Contractor shall weld the vertical pickets to the horizontal members to the degree necessary to fully seal the interface.

Subsection **509.14 Notice of Fabrication** shall be revised to include the following:

Prior to performing any welding of pickets to horizontal members, the Contractor shall give The Cities a minimum of seven (7) days' notice.

Subsection **509.17 Inspection** shall be revised to include the following:

Inspection of the welding of the vertical picket to horizontal member interfaces is the responsibility of the contractor. Inspection requirements for the demonstration welding to be performed as part of the weld procedure approval process is described in Section 509.19.

The contractor shall visually inspect all production welding to verify that no cracking of the welds is occurring nor any distortion of the steel members. Written documentation of all inspections shall be kept on a panel by panel basis and submitted to The Cities within one week of completion of the welding for each panel. If any cracking of welds or distortion of members is observed, it shall be brought to the immediate attention of The Cities. The Contractor shall propose remedial actions to address the cracking or distortion. Such remedial action shall be performed by the Contractor at his own expense.

Subsection **509.19 General Fabrication Requirements** shall be revised to include the following:

Prior to performing any welding of vertical pickets to horizontal members, the Contractor shall submit a weld procedure to The Cities for preliminary approval. The welding procedure shall be in conformance with these Specifications.

Following preliminary approval of the weld procedure, the Contractor shall perform the welding on a test panel to demonstrate that the welding procedure effectively seals the vertical picket/horizontal member interface without cracking or distortion of the panel. The test panel shall be an actual fence panel from the bridge that is removed from a

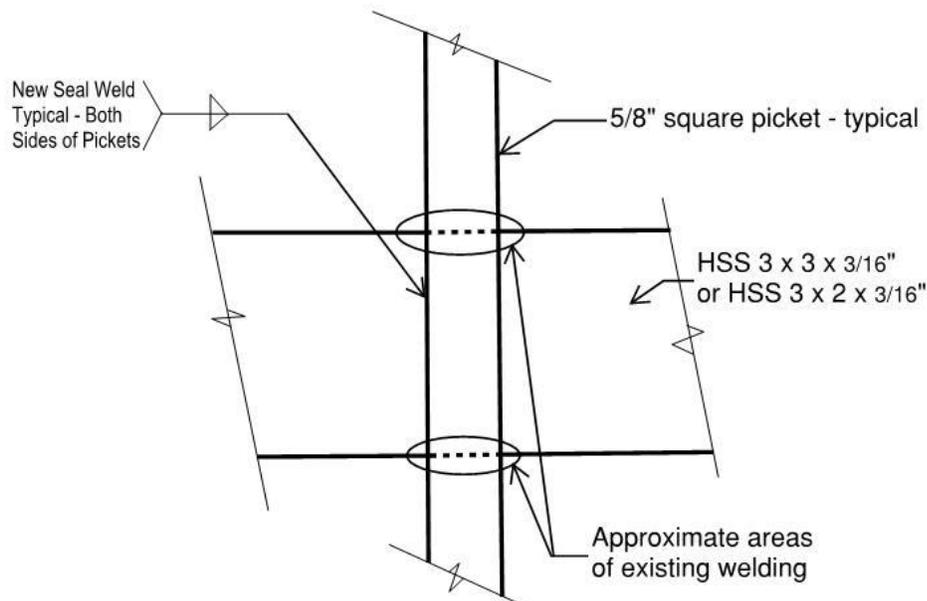
location where no traffic control on I-25 is required. This weld procedure demonstration shall be performed in the presence of representatives of The Cities. The Cities shall be given a minimum of seven (7) days advance notice prior to the welding demonstration.

As part of the welding demonstration, four (4) vertical picket to horizontal member interfaces shall be welded in accordance with the approved welding procedure.

As part of this demonstration, the Contractor shall perform a visual and magnetic particle inspection of all of the demonstration welds to identify any cracking. If cracking of the welds occurs, which is considered detrimental by The Cities, the Contractor shall revise the weld procedure and re-perform the weld demonstration until an acceptable weld procedure is approved.

Once an acceptable weld procedure is approved by The Cities, production welding may commence.

The general configuration of the vertical picket to horizontal member interface is shown below:



Typical Vertical Picket to Horizontal Member Interface

(note: each picket has two or three interface locations requiring seal welds)
(Not to Scale)

Subsection **509.32 Method of Measurement** shall be revised to include the following:

The seal welding of vertical pickets to horizontal members shall be measured as a single lump sum for all of the fence panels on the 144th Avenue Bridge over I-25. This lump sum shall include all costs associated with this Work including the weld procedure demonstration and any remedial welding necessary to fully seal the interface crevices.

Subsection **509.33 Basis of Payment** shall be revised to include the following:
The Work of this item shall be paid as a single lump sum.

END OF SECTION

REVISION OF SECTION 519

JOINT FILLER/CAULKING

Section 519 shall be added to the Specifications for this Project.

Description

519.01 This Work shall consist of caulking the pedestrian railing picket-to-supporting member interfaces where the interface was not completely sealed by welding as part of the original construction.

Materials

519.02 The joint filler caulking material shall be GE Silicone II Paintable Silicone or an Engineer Approved equal.

Construction Requirements

519.03 Joint filler caulking shall be applied to completely seal the picket to supporting member interface after the interface has been cleaned and prior to application of the three (3) coat paint system.

Prior to applying joint filler/caulking on a production basis, the contractor shall perform a demonstration on a minimum of three (3) picket to supporting member interfaces. After the joint filler/caulking has cured for a specified amount of time as recommended by the manufacturer, the three (3) coat paint system shall be applied. The intent of the demonstration is to confirm that the caulking adheres well to the substrate and effectively seals the interface and to demonstrate that the caulking and paint system are compatible. This demonstration must be successfully completed to the satisfaction of the Engineer prior to any production painting.

Method of Measurement

519.04 No separate measurement will be made for this Work.

Basis of Payment

519.05 No separate payment will be made for this item. Costs associated with this Work shall be included in the cost of other items requiring joint filler/caulking.

END OF SECTION

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REVISION OF SECTION 630

CONSTRUCTION ZONE TRAFFIC CONTROL

Subsection 630.01 shall include the following:

In addition to the Manual on Uniform Traffic Control Devices (MUTCD) and all current additions, the Work shall also meet the guidelines of the ATSSA Guide for Work Area Traffic Control (ATSSA), published by the American Traffic Safety Services Association, and the Colorado Department of Transportation (CDOT) traffic control for highway road closures. This Contract includes traffic control for closure of highway lanes during the Work to be completed over the main overpass for 136th Avenue and for 144th Avenue bridges.

Subsection 630.02 shall include the following:

All traffic control devices shall also be in accordance with Section 614.

Subsection 630.09. Delete the first, second and third paragraph as well as item No.3 of the fourth paragraph and add the following:

The Contractor shall develop a typical Traffic Control Plan (TCP) and supporting Method of Handling Traffic (MHT) for Highway, Collector street locations included in the Contract to be approved by the Owner prior to starting construction. A single Traffic Control Permit will be issued for all residential street locations included in the Contract while individual Traffic Control Permits will be required for each arterial street location. The Contractor shall submit a typical and specific arterial TCP's and MHT's to the Owner for approval **within fourteen (14) days after formal Award of the Contract**. Failure of the Contractor to submit detailed, comprehensive and clearly legible TCP and MHT will constitute grounds for rejection of the TCP and MHT without extensive elaboration or comment from the Owner. The Owner will return the approved or "redlined" TCP and MHT to the Contractor within five (5) days from receipt of the submittal. The Contractor shall then present final corrected TCP and MHT to the Owner for final approval and issuance of a Traffic Control Permit.

Pedestrian movements shall also be fully addressed in the TCP and MHT submittals. No plan will be approved that unreasonably impedes or restricts pedestrian movements. No devices required for the implementation the Contract requirements will be permitted to be installed on or above sidewalk surface areas unless otherwise approved by the Owner in the MHT.

The Contractor shall also obtain traffic control permits as required by other municipal, county or state agencies when the Work requires traffic control devices to be installed within the limits of their respective jurisdictions. The Contractor shall contact other appropriate municipalities at least seventy-two (72) hours before starting Work in any areas that will affect or change traffic flow within other jurisdiction(s). The Contractor shall obtain approval from the respective responsible representative of other jurisdictions for any lane or street closure, or any change or interruption of the flow of traffic within that respective City. If the Contractor desires to revise the approved TCP or MHT as a result of comments received from other jurisdictions, the Contractor shall submit such revisions to the Owner and allow one (1) week for review and comment. The Owner will approve a plan that, in his judgment, provides adequately for the safety and convenience of the public and provides the same or greater service as the previously approved plan.

The Contractor shall Work only between the hours of 8:15 a.m. and 4:45 p.m. on local residential streets. The Owner reserves the right to modify these working hours. The Contractor shall work only between the hours of 8:15 a.m. and 3:30 p.m. on collector streets, with the stipulation that only one (1) direction of travel be interrupted at a time.

The Contractor shall work only between the hours of 8:30 a.m. and 3:30 p.m. on Arterial streets, with the stipulation that only one (1) direction of travel be interrupted at any given time unless working in median areas. Active traffic control devices on Arterial streets shall be installed and removed between the hours of 8:30 and 3:30 p.m. The Contractor must maintain at least one (1) lane of traffic in each direction as well as a median lane for left turn movements on all Arterial streets unless otherwise approved by the Owner and incorporated into an approved MHT. Business access closures may only occur on Monday through Thursday for duration not to exceed two (2) hours before reopening each access. Requests for other hours, special conditions or time allowances will be subject to approval by the Owner. Separate turn lanes will be required at all signalized intersections during the course of construction at intersections.

Fully automated **Variable Message Signs** shall be installed and operate continuously at both ends of all arterial street segments **at least seventy-two (72) hours prior to the mobilization to the each location** and shall remain in place until the completion of mill and pave operations at each respective street location. The messages shall, at a minimum, include the following information prior to the Work: "Roadway Construction on respective street", "date to date", from "respective intersecting street to respective intersecting street". The message after commencing the construction effort shall be "Roadway Construction Zone", "Please Drive Safely" or as otherwise approved/directed by the Owner.

The Owner will cooperate with the Contractor for the operation of affected signalized intersections as may be necessary to facilitate Work under this Project by placing signals into "flash" mode if/when necessary for the safety of the traveling public. The Contractor shall provide notice to the Owner, at least two (2) weeks in advance of the need, for a The Cities uniformed police officer for traffic control at any signalized intersection if their operations require either their equipment or the public to operate against the signals. **Contractor's personnel shall NOT direct traffic through a signalized intersection. All Contractor personnel on site, including superintendents and principals, are required to wear a visible safety vest.**

Two (2) weeks prior to implementation, the Contractor shall provide and coordinate, at their expense, uniformed police officer(s) for traffic control during Work within the limits of any signalized intersection. All Work performed under this Project which extends into a signalized intersection will require the respective signals to operate with the signals in a "flashing red" or "flashing yellow" mode as deemed necessary by the Owner. During such times, the Contractor shall coordinate the change to "flash" mode signal operation with the Owner. Contractor's personnel shall NOT direct traffic through a signalized intersection contrary to the signalized directives. All contractor personnel on site, including superintendents and principals, are required to wear a visible safety vest.

The Contractor will not be permitted to have construction equipment, personal vehicles, or materials in the lanes open to traffic unless permitted by the Owner. The Contractor is cautioned that all personal vehicle and construction equipment parking will be prohibited where it conflicts with safety, access, or flow of traffic at any time. Personal vehicle and construction equipment parking will be prohibited on all private lots without the respective property owner's permission.

Traffic lanes through construction areas shall be maintained as shown on the approved traffic control plans or with a clear width of at least 11' per lane.

In the event there is a violation of the working hour limitations or any other Traffic Control requirement, the Contractor will automatically be subject to a "Stop Task order" to be imposed at the beginning of the next working day. Work shall not resume until the Contractor meets with the Owner's Traffic Engineering representative to discuss the issue(s) and assures the Owner, in writing, that there will not be a reoccurrence of the violation.

"No Parking" signs shall be placed not less than forty-eight (48) hours in advance of any temporary on-street parking restrictions and shall conform to the requirements listed under the section titles Legal Relations and Responsibilities to the Public. During non-construction periods (evenings, weekends, holidays, etc.), all Work shall be adequately protected to ensure the safety of vehicular and pedestrian traffic. Open trenches/patch areas during non-construction periods are not permitted. The Contractor shall periodically check on the condition of traffic control devices that are utilized during the course of the project on weekends or holidays as may be warranted to ensure that devices that are damaged or moved during non-work hours are restored in an expedient fashion.

Subsection 630.14 shall be deleted and replaced with the following:

All construction Traffic Control shall be measured by lump sum.

Subsection 630.15 shall be deleted and replaced with the following:

<u>PAY ITEM</u>	<u>PAY UNIT</u>
Traffic Control	LS

END OF SECTION

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APPENDIX

Appendix 1: 136th Avenue Bridge Drawings (Separate Attachment)

Appendix 2: 144th Avenue Bridge Drawings (Separate Attachment)



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: 2016 Asphalt Pavement Crackseal Project Contract

Prepared By: Barb Cinkosky, Street Projects Specialist
Dave Cantu, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a contract for the 2016 Asphalt Pavement Crackseal Project with the low bidder, A-1 Chipseal, Inc., in the amount of \$140,160 and authorize a 20% contingency of \$28,032 for a total authorized expenditure of \$168,192.

Summary Statement

- Cracksealing is one of the City's pavement management tools and is the most cost effective preventative maintenance strategy available in fighting asphalt pavement deterioration and prolonging pavement life.
- Staff has utilized the services of a private contractor to perform a portion of the City's annual asphalt pavement cracksealing projects since 2004.
- The low bidder, A-1 Chipseal, Inc., met all of the City bid requirements and has successfully performed this process in both the City of Westminster and the Denver Metro area over the past 14 years. Staff recommends that City Council award the 2016 Cracksealing Project contract to A-1 Chipseal, Inc.
- The 2016 Cracksealing Project will be completed on 43 streets totaling 100 lane miles.
- A 20% contingency has been included to ensure that funds are available, and the project can continue without interruption should additional material be required during the project.
- Adequate funds were budgeted and are available for this expenditure.

Expenditure Required: \$168,192

Source of Funds: General Fund - Public Works & Utilities 2016 Street Operations Budget

Policy Issue

Should City Council award the 2016 Asphalt Pavement Cracksealing project contract to the low bidder, A-1 Chipseal, Inc.?

Alternatives

1. City Council could choose to reject the bids received and rebid the project. This alternative is not recommended because the City of Westminster project was advertised on the City’s website via DemandStar. Staff believes the low bid represents the best value to the City.
2. City Council could choose to discontinue the practice of cracksealing all or some of the proposed streets prior to resurfacing. This alternative is not recommended. Without performing this preventative maintenance, water would penetrate the pavement’s subgrade and significantly reduce the life expectancy of the resurfacing projects.
3. City Council could choose to request that the crackseal project is performed in-house. Staff does not recommend this alternative. By adding this work to their current workload, City crews would fall behind with the scheduled pavement preservation that they currently perform. Additionally, the combined use of contract and in-house labor for this service has proven successful in stretching annual maintenance funding.

Background Information

Cracksealing is one of the City’s pavement management tools and is the most cost effective preventative maintenance strategy available in fighting asphalt pavement deterioration and prolonging pavement life. The most significant benefit of an effective crackseal program is the prevention of water from entering the roadway through cracks, which weakens the roadway base and sub-base through freezing and thawing. Cracksealing is performed from late fall through early spring when pavement cracks are at maximum width. The cracks are blown free of debris with compressed air, dried with heat when required and filled with a hot, rubberized sealant.

Staff has historically utilized the services of a contractor to perform a portion of the City’s annual asphalt pavement cracksealing projects. This combined use of contract and in-house labor for the cracksealing project has proven successful in stretching annual maintenance funding. Without this contract assistance, City crews would fall behind with other scheduled pavement preservation activities. The 2016 Asphalt Pavement Crackseal Project represents a total of 100 lane miles of asphalt pavement preventative maintenance on 43 streets.

Formal bids were solicited in accordance with City bidding requirements for the 2016 Asphalt Pavement Crackseal Project. Request for proposals were advertised on the City’s website via DemandStar. The following sealed bids were received:

Vendor	Bid Amount
A-1 Chipseal Company	\$140,160
Precise Striping, LLC	\$154,800
Foothill Paving & Maintenance Inc.	\$160,800
Coatings, Inc.	\$203,520
American Pavement Solutions	\$220,800
PLM Asphalt & Concrete, Inc.	\$228,000
Staff Estimate	\$152,400

The low bidder met all of the City bid requirements and has successfully performed this process in both the City of Westminster and the Denver Metro area for the past 15 years. Staff recommends authorizing the crackseal contract to the low bid vendor, A-1 Chipseal.

Staff has estimated the amount of material needed to complete the project. Because this amount can change due to conditions at each site, Staff recommends a 20% contingency to this contract to ensure that funds are available, and the project can continue without interruption should additional material be required. Adequate funds for the project were budgeted in the 2016 operating budget.

The proposed action helps achieve City Council's goal of "Ease of Mobility" by meeting objectives of drivability and mass-transit options available to the community on maintained and improved neighborhood infrastructure.

Respectfully submitted,

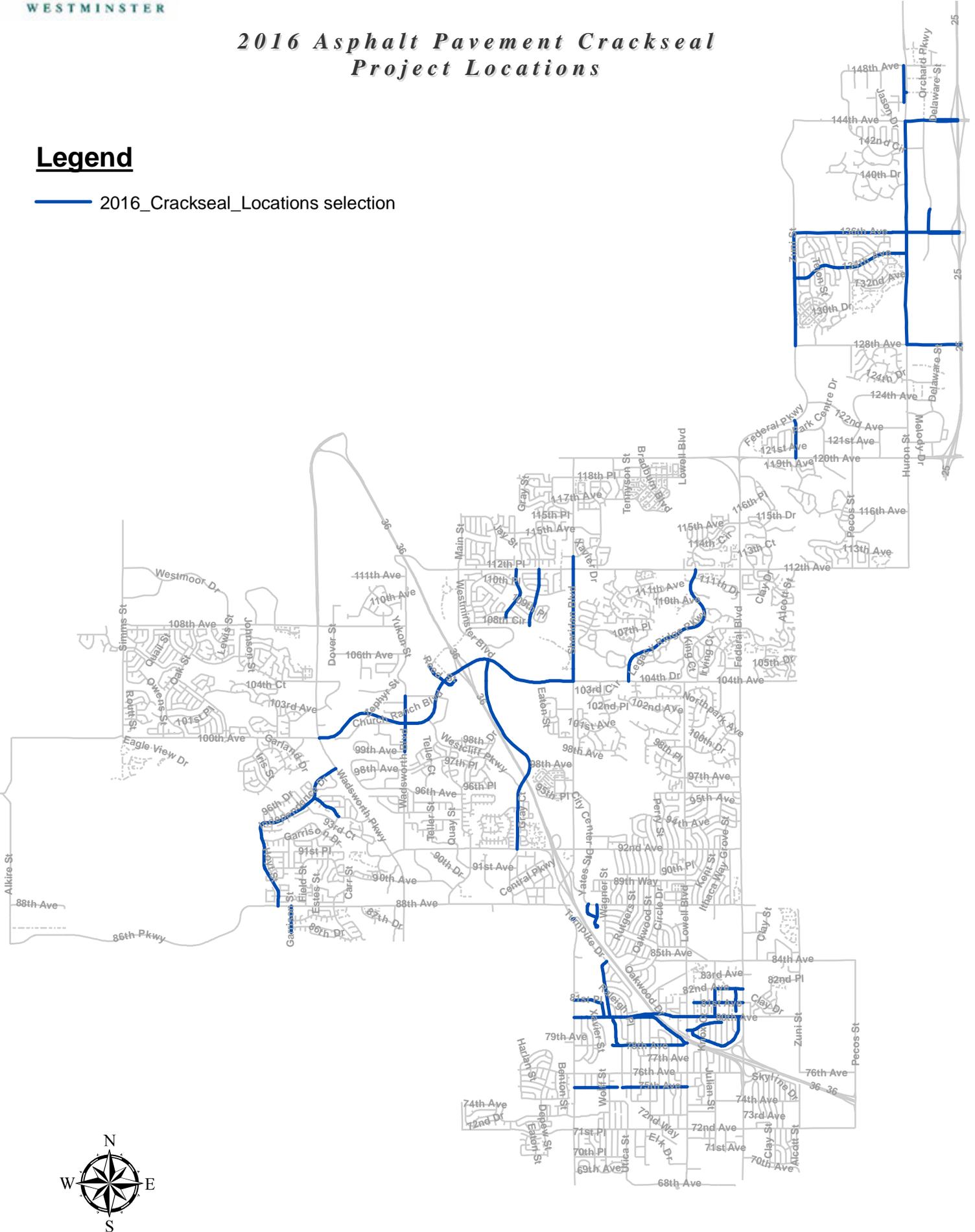
Donald M. Tripp
City Manager

Attachments: Project Map
Location List

2016 Asphalt Pavement Crackseal Project Locations

Legend

— 2016_Crackseal_Locations selection



Appendix A 2016 Crack Seal Location List

	Street	From	To	Sq Yds
1	104th Ave	Church Ranch Blvd	Sheridan Blvd	43,293
2	Church Ranch Blvd	Wadsworth Blvd	104th Ave	33,319
3	128th Ave	Huron St	I-25	17,942
4	Sheridan Blvd	104th Ave	113th Ave	52,126
5	Zuni St	128th Ave	136th Ave	37,037
6	Westminster Blvd	92nd Ave	104th Ave	46,845
7	80th Ave	Sheridan Blvd	Federal Blvd	43,994
8	Harlan St	112th Ave	108th Ave	11,390
9	Eaton St	112th Ave	108th Ave	11,583
10	88th Pl	Yates St	Turnpike Dr	4,671
11	Yates Drive	88th Avenue	Wolff Court	4,059
12	Wolff Court	88th Avenue	South End	6,065
13	82nd Ave	Irving St	Federal Blvd	3,220
14	Irving St	80th Avenue	82nd Avenue	4,344
15	Appleblossom Ln	80th Ave	79th Ave	13,456
16	79th Ave	Lowell Blvd	Hooker St	6,790
17	Turnpike Dr	80th Ave	Lowell Blvd	8,541
18	Tennyson St	80th Ave	Turnpike Dr	9,409
19	Stuart Pl	80th Ave	78th Ave	4,063
20	78th Ave	Turnpike Dr	Stuart St	11,213
21	81st Avenue	Sheridan Boulevard	Wolff Street	4,639
22	Wolff Street	80th Avenue	81st Avenue	3,100
23	Garrison Street	86th Avenue	88th Avenue	5,731
24	Independence Drive	96th Drive	Wadsworth Pkwy	21,412
25	94th Avenue	Larkbunting Drive	Independence Drive	6,012
26	81st Avenue	Federal Boulevard	King Street	7,826
27	Reed Street	N & S of Church Ranch		5,200
28	Green Court	81st Avenue	82nd Avenue	1,708
29	75th Avenue	Winnona Street	Sheridan Boulevard	6,980
30	75th Avenue	Lowell Boulevard	Stuart Street	10,723
31	134th Avenue	Huron Street	Shoshone Street	12,800
32	132nd Avenue	Shoshone Street	Zuni Street	7,461
33	Wadsworth Boulevard	99th Place	103rd Avenue	6,137
34	Legacy Ridge Parkway	104th Avenue	112th Avenue	30,541
35	Zuni Street	120th Avenue	Federal Parkway	6,740
36	Huron Street	128th Avenue	144th Avenue	82,210
37	136th Avenue	Huron Street	I-25	36,824
38	136th Avenue	Zuni Street	Huron Street(South Side Only)	23,640
39	144th Avenue	Huron Street	I-25	27,260
40	Orchard Parkway	136th Avenue	North pavement end	7,070
41	132nd Avenue	Huron Street	Pecos Street	10,545
42	Huron Frontage Road	148th Avenue	145th Way	5,352
43	146th Avenue	Huron Street	Huron Frontage Road	465
			TOTAL SQUARE YARDS	703,736

Lane Miles

99.96



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Water Treatment Facilities Improvements Project Engineering Services Contract

Prepared By: Julie Koehler, Senior Engineer
Stephen Grooters, Senior Projects Engineer

Recommended City Council Action

1. Authorize the City Manager to execute a contract with J&T Consulting Inc. in the amount of \$325,460 to provide engineering services for the 2015 Water Treatment Facilities Improvements Project, plus a contingency of \$32,546 for a total authorized expenditure of \$358,006.
2. Authorize combining the Semper Lime Feed Repairs and Replacement (R&R), Semper Filtration R&R, Semper Sedimentation R&R, Northwest Water Treatment Facility (NWTF) and Chemical Feed R&R capital project accounts into a new 2015 Water Treatment Facilities Improvements capital project account to provide a total amount of \$4,600,000 to complete the project.

Summary Statement

- The City owns and operates two potable water treatment facilities that supply water to customers. These are the Semper Water Treatment Facility (built in 1969) and the Northwest Water Treatment Facility (built in 2001). Both plants have equipment in need of repairs and improvements.
- Because it is an older facility, work at the Semper facility is driven primarily by age and condition. Work at the Northwest plant is focused on improving safety, operations, and reliability of the treatment processes.
- Repairs and replacement will be sequenced to maintain high-quality services to City customers, and no interruptions in service are anticipated.
- Staff prepared a Request for Proposal for engineering design and distributed it to five engineering firms. Of the four proposals received, Staff believes J&T Consulting Inc. (J&T) presented the best proposal and provided the best value to the City.
- Staff recommends awarding the contract to J&T based on their competitive rates, demonstrated ability to successfully perform R&R work of similar scope and complexity, familiarity with City facilities and procedures, and a history of successful projects with the City.
- Design completion is anticipated in fall 2016 with construction completion in mid-2017.
- This R&R work was previously approved by City Council as part of the 2015/2016 budget. The budget includes four Utility Capital Fund project accounts. Staff is proposing that these accounts be combined into a single project to improve construction sequencing, streamline project costs, and Staff resources, and improve site safety and security. Adequate funds are available between these four accounts to fund this contract.

Expenditure Required: \$358,006

Source of Funds: Utility Fund Capital Improvement Fund: Semper Lime Feed R&R;
Semper Filtration R&R; Semper Sedimentation R&R; NWTF Chemical Feed Systems R&R

Policy Issues

1. Should the City proceed with awarding the engineering services contract to J&T Consulting Inc.?
2. Should City Council authorize the combination of previously approved capital project budgets into the 2015 Water Treatment Facility Improvements Project?

Alternatives

1. City Council could decline to approve the contract and place the project on hold. This is not recommended because this action would result in delaying repairs to the treatment facility and could result in increased maintenance and repair expenses and possible service impacts to Westminster water customers.
2. City Council could choose to award the contract to one of the other consultants that submitted a proposal. Staff does not recommend this alternative since J&T Consulting Inc. presented the best and most qualified proposal and will provide the best value to the City.
3. City Council could choose not to authorize the combining of budgets into one project account. Staff does not recommend this alternative as bundling the smaller projects into a single, larger project reduces overall project costs, streamlines Staff resources, and ensures consistency in project accounting as well as in construction.

Background Information

The City owns and operates two potable water treatment facilities that supply water to customers. These are the Semper Water Treatment Facility and the Northwest Water Treatment Facility. Because of the differing capacities, treatment processes, and ages of the plants, each requires a different type of repair and replacement. The initial construction of Semper Water Treatment Facility (Semper) took place in 1969. Since that time, various expansion and improvement projects have been constructed to maintain service and the ability to meet more stringent regulations. Overall, the facilities at Semper have provided high-level service to City water customers but are aging and need repairs. The Northwest Water Treatment Facility (Northwest) has been in operation for 14 years, and some of the treatment equipment has reached the end of its useful life and requires R&R. Also, some improvements are necessary to maintain operational flexibility.

Over the past few years, Staff developed a comprehensive repair and replacement program for all of the existing assets at Semper and Northwest and identified and prioritized repair and replacement needs. The current priority needs at Semper include:

- Valves, piping, and pumping equipment related to the filter backwash feed systems;
- Valves, piping, and mixers related to the lime (chemical) feeder systems;
- Structural components of the sedimentation process system; and
- Piping and valves for several chemical storage and feed systems.

Current needs at Northwest include:

- Piping and valves for several chemical storage and feed systems;
- Concrete repairs in the sedimentation basin; and
- Installation of new process piping and valves to improve operational flexibility and reliability.

Because of the specialized nature of this project and the corresponding engineering expertise required, Staff sent a Request for Proposals (RFP) to five engineering firms who specialize in this type of design work. Four proposals were received. J&T was selected for this work based on their response to the following criteria identified in the Request for Proposals:

- The approach that clearly indicates the understanding of the project scope and City's goals and expectations.
- The firm's specialized experience in projects of similar size, scope and complexity.
- Recent project experience in the City and in the Colorado region on similar work.

- Positive reference feedback regarding past project performance and the performance of individuals proposed for the project.
- The depth of experience and availability of project manager and relevant experience of each of the members of the team.
- Firm reputation with the City and familiarity with City Facilities, Staff, codes, policy, procedures, and regulations.
- A project schedule that demonstrates their ability to meet the City’s targeted completion dates.

The four consultants that submitted proposals, hourly rate ranges for key staff, and total hours of effort proposed were as follows:

Firm Name	Range of Hourly Rates	Hours of Effort Proposal Based on Scope/Approach Submitted
J&T Consulting, Inc.	\$80 to \$130/hour	2,240
CH2M	\$113 to \$162/hour	4,767
HDR	\$110 to \$212/hour	2,057
Burns McDonnell	\$145 to \$174/hour	957

Engineering fees from the proposals received ranged from \$218,582 to \$678,473, with the J&T proposal at \$325,460. In addition to their different fees, proposals ranged in the level of complexity and thoroughness of scope relative to the City’s goals for the project. Of the firms that proposed, Staff believes that the J&T approach was the best for the project. It incorporated a strong local team with proven repair and rehabilitation experience for complex projects and have successfully provided engineering services to the City on other projects similar in size and scope to the current project. Overall, the project (with construction) is currently estimated to cost \$4,600,000. The J&T fee is roughly 7% of the estimated project cost, which is less than the typical range of 10-15%. However, their proposal detailed the approach and methods for successfully completing design within their proposed effort/fee, and the proposal selection committee is recommending J&T be awarded the design contract. Following successful completion of this design phase, Staff intends to negotiate a subsequent contract for engineering services during construction and will return to City Council for approval of additional work. The design phase is expected to be completed by fall 2016, with construction completion in mid-2017.

City Council previously approved the R&R work at Semper as part of the 2015/2016 budget. The budget includes four Utility Capital Fund project accounts that total \$4,600,000. Staff requests the consolidation of the Semper Lime Feed R&R, the Semper Filtration R&R, the Semper Sedimentation R&R and the NWTF Chemical Feed Systems R&R project accounts into a new 2015 Water Treatment Facility Improvements Project account to streamline project accounting, increase the efficiency of Staff resources and facilitate sequencing and site safety during construction.

The 2015 Water Treatment Facility Improvements Project helps achieve the City Council’s Strategic Plan Goals of “Beautiful, Desirable, Safe and Environmentally Responsible City” and “Financially Sustainable Government Providing Excellence in City Services” by contributing to the objectives of well-maintained City infrastructure and facilities and providing water service with reduced risk of system failures.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Federal Boulevard Water Main Construction Contract and Engineering Contract Amendment

Prepared By: Stephanie Bleiker, Senior Engineer
Stephen Grooters, Senior Projects Engineer

Recommended City Council Action

1. Based on a recommendation of the City Manager, Council finds the public interest will best be served by authorize the City Manager to execute a contract with T. Lowell Construction Inc. to complete the installation of a new water pipeline in Federal Boulevard for the amount of \$1,240,000 plus a 15% contingency of \$186,000 for a total authorized expenditure of \$1,426,000.
2. Authorize an amendment to the contract with Martin/Martin Inc. to provide engineering services during construction in the amount of \$122,448 plus a 10% contingency of \$12,245 for a total authorized expenditure of \$134,693, bringing the total authorized expenditure with this firm to \$321,396.

Summary Statement

- This project involves the installation of a new water main in Federal Boulevard from 69th Avenue to 72nd Avenue. This water line is necessary to serve near-term demands in the area, as well as anticipated future demands driven by new development, redevelopment, and fire protection needs.
- A contract for the design of this water main was approved by Council in November 2014 in conjunction with phase one of the Westminster Station Infrastructure project. Design was completed in early fall 2015 and the project is now set to move forward with construction.
- The construction schedule is connected to and closely coordinated with both the CDOT Federal Boulevard bridge project and the City’s Westminster Rail Station.
- As a part of this project, 35 potable water customers currently served by the Crestview Water and Sanitation District (Crestview) will be transferred to City water service per the 2014 Intergovernmental Agreement (IGA) between the City and Crestview.
- Staff recommends awarding the construction contract to T. Lowell Construction Inc. as they provided the lowest responsive bid.
- Staff recommends a 15% construction contingency due to utility congestion in this area and to account for construction complexities associated with coordinating multiple construction projects in the immediate vicinity.
- Martin/Martin Inc. was selected for engineering services during construction. It is Staff’s assessment the firm’s team provides the best value for services during project construction given their successful performance and ability to streamline project tasks.
- Staff negotiated a competitive scope of work and fee with Martin/Martin Inc. for services during construction and is requesting Council approval for the contract amendment.
- Adequate funds were budgeted and are available for this project.

Expenditure Required: \$1,560,693

Source of Funds: Utility Capital Improvement Fund – Federalview TOD Water Main Project

Policy Issues

- Should City Council authorize a contract with the lowest responsive bidder, T. Lowell Construction Inc., for construction of the new water main in Federal Boulevard?
- Should City Council authorize a contract amendment with Martin/Martin Inc. for engineering services during construction?

Alternatives

1. City Council could choose to reject all of the construction bids and rebid the project. However, the City received four bids from construction companies that were within a tight range, indicating competitive pricing. Staff recommends awarding the contract to the lowest responsive bidder, T. Lowell Construction Inc., to maintain the project schedule.
2. City Council could choose to pursue a construction contract with the low bidder. However, based on the reference check process and the City’s purchasing procedure criteria, it is Staff’s opinion that public interest is best served through a contract with T. Lowell Construction Inc. as the lowest responsive bid.
3. City Council could choose not to authorize an amendment with Martin/Martin Inc. and request proposals for engineering services during construction. Martin/Martin Inc. was originally selected with anticipation of subsequent engineering services during construction. In addition, it is Staff’s assessment that they provide the best value for this project based on their familiarity with the project requirements and the City infrastructure involved. Staff believes that the negotiated scope is competitive for the work and recommends that Martin/Martin Inc. be retained for engineering services during construction.

Background Information

The purpose of this project is to construct a new water main in Federal Boulevard from 69th Avenue to 72nd Avenue. The new water line is necessary for system redundancy, improved flow, fire protection, and support of increased capacity demands resulting from development and redevelopment. Timing for this project is especially important to remain coordinated with two other major projects in the vicinity, including the CDOT Federal Boulevard Bridge project and construction in the area of the City’s Westminster Rail Station. Project timing is also important for the City to remain in compliance with the commitment to take over water service to 35 Crestview customers in the Federalview subdivision as a part of the 2014 Intergovernmental Agreement (IGA) between the City and Crestview.

Council approved design of this project in November 2014. Design is now complete and the project is ready to move forward with construction. Construction of this Federal Boulevard water main is the first of two infrastructure improvement projects planned for this area. The second project will involve the physical reconnection of Crestview customers to City water mains. Design for this second project is still in progress, and Staff will return to Council at a future date for approval of that construction contract.

Design of the Federal Boulevard water main was completed in early fall 2015 and request for bids were sent to seven contractors. An eighth contractor, Redpoint Contracting, provided an unsolicited bid. Four bids were received and are summarized in the following table:

Contractors	Bid Price
Redpoint Contracting	\$ 1,152,174
T. Lowell Construction (recommended for award)	\$ 1,240,000
Brannan Construction Company	\$ 1,485,120
American West	\$ 1,653,980
Engineer’s Opinion of Cost	\$ 1,095,906

Based on a review of the bids received and a detailed check on references for projects of similar complexity/scope/size, Staff is recommending T. Lowell Construction be awarded the construction contract. T. Lowell’s project references, including references for City of Westminster projects, are

favorable and, as shown by the tight bid range, their pricing is competitive: T. Lowell's bid is 16 percent lower than the next highest bid. Based on the bid review process and references for projects of similar size and complexity Staff does not recommend the lowest bidder, Redpoint Contracting, for this project. Redpoint Contracting is a company relatively new to the Front Range and is building their business in the area. Staff believe they are a potential contractor for future work with the City, depending on project size and scope.

Construction is anticipated to commence following award of the contract, with completion in the spring of 2016. There are some notable complexities that will need to be resolved throughout construction. Federal Boulevard traffic control requirements are extensive and the area is known for the high amount of utilities within the roadway. The project must also be tightly coordinated with CDOT's Federal Boulevard bridge construction and with the City's construction activities for the Westminster Rail Station. To help account for these complexities, Staff recommends providing a 15% construction contingency.

Following successful completion of the project design, Staff negotiated a contract amendment for engineering services during construction with Martin/Martin Inc. in the amount of \$122,448. Costs for these services are estimated to be approximately 10 percent of the construction contract. The overall schedule for this project is anticipated to be brief, and Martin/Martin Inc. provide a streamlined approach to engineering services during construction that Staff believe will successfully accomplish the City's goals for the project within the fee proposed.

The Federal Boulevard Water Main Project helps achieve the City Council's Strategic Plan Goals of "Beautiful, Desirable, Safe and Environmentally Responsible City" and "Financially Sustainable Government Providing Excellence in City Services" by contributing to the objectives of well-maintained City infrastructure and facilities and providing regional collaboration to enhance water services now and into the future.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Map – Federal Water Main Project

FEDERAL WATER MAIN CONSTRUCTION

72nd Avenue

~ Federalview
Subdivision ~

Hooker Street

71st Avenue

Federal Boulevard

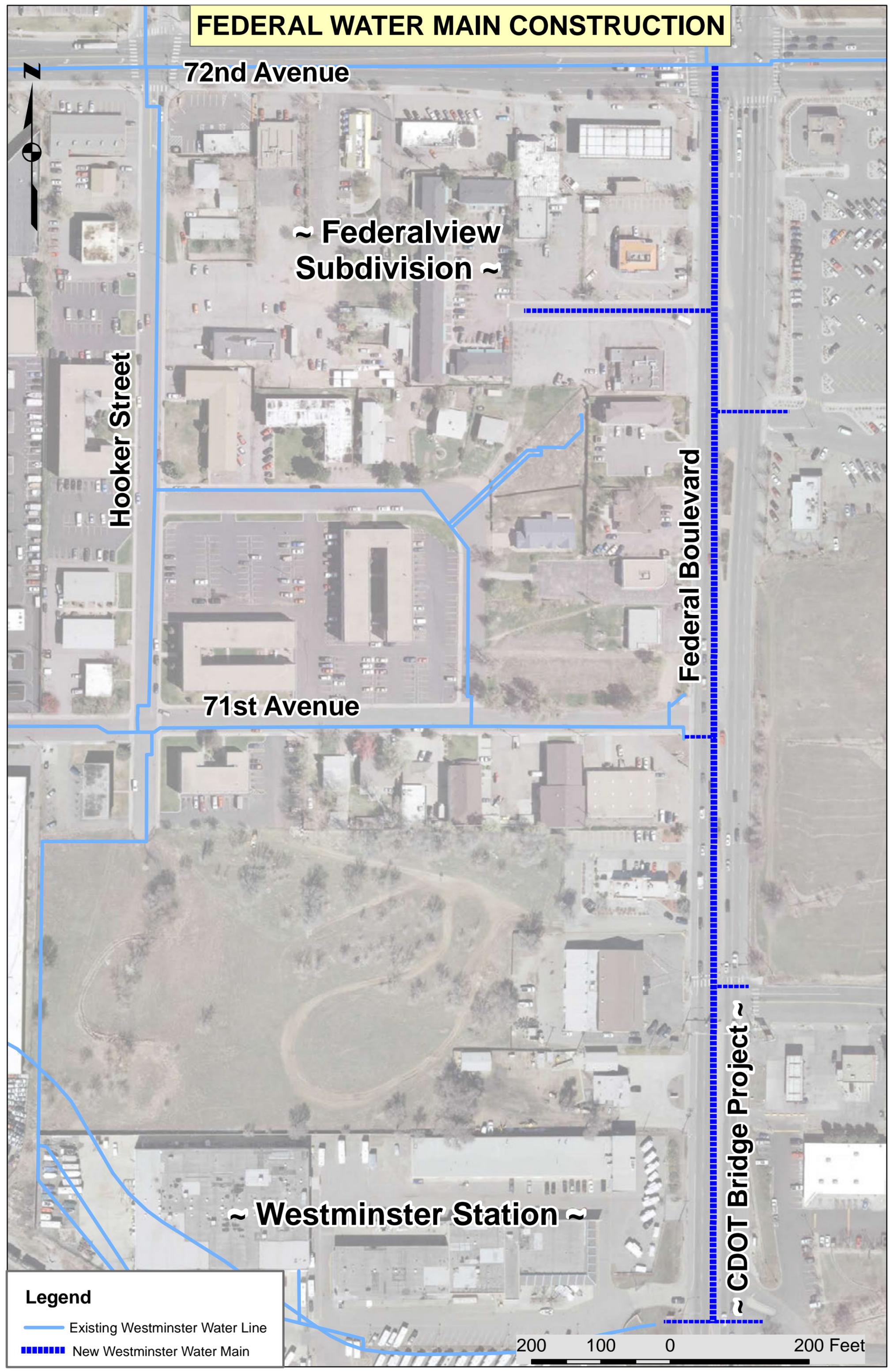
~ Westminster Station ~

~ CDOT Bridge Project ~

Legend

- Existing Westminster Water Line
- New Westminster Water Main

200 100 0 200 Feet





Agenda Item 8 R

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Second Reading of Councillor’s Bill No. 52 re the Winters Subdivision Filing No. 1, Comprehensive Plan Amendment

Prepared By: Patrick Caldwell, Senior Planner

Recommended City Council Action:

Pass Councillor’s Bill No. 52 on second reading approving a Comprehensive Plan amendment for the part of the property known as the Winters South Property by changing the designation of parts of the parcel from City Open Space, Private Park/Private Open Space, and R-3.5 to City Open Space, Private Park/Private Open Space, and an R-2.5 use designation based on a finding that: a) the proposed amendment will be in the public good and that, b) the proposed amendment is in compliance with the overall purpose and intent of the Comprehensive Plan.

Summary Statement

- City Council action is requested to pass the attached Councillor’s Bill on second reading, which amends the Comprehensive Plan for a portion of this site.
- A Comprehensive Plan designation is R-2.5 on the part of the site known as Winters North. There is a Comp Plan designation on the part of the property known as Winters South that is now R-3.5 and this is proposed to change to R-2.5 to give the entire Winters site R-2.5 Comp Plan designation for the residential areas. City Open Space, and Private Park/Private Open Space areas will be expanded.
- The site is zoned Planned Unit Development and the existing Preliminary Development Plan allows single-family residential uses, open space uses, and recreational uses. The amended documents will not change those uses.
- Thirty-two, single-family residential lots with a minimum lot size of 10,000 square feet are proposed.
- This Councillor’s Bill was passed on first reading on November 23, 2015.

Expenditure Required: \$0
Source of Funds: N/A

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Councillor’s Bill

BY AUTHORITY

ORDINANCE NO. **3809**

COUNCILLOR'S BILL NO. **52**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Garcia - Seitz

A BILL

**FOR AN ORDINANCE AMENDING THE WESTMINSTER
COMPREHENSIVE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds that:

a. An application for an amendment to the Westminster Comprehensive Plan has been submitted to the City for its approval, pursuant to §11-4-16(D)(2), W.M.C., by the owner of the property known as Winters South Subdivision, Westminster, Colorado, and the City of Westminster requesting a change in the land use designations of that subdivision from R-3.5 to R-2.5, from Private Park/Private Open Space to R-2.5 and City Open Space, and from City Open Space to Private Park/Private Open Space.

b. Such amendment has been referred to the Planning Commission, which body held a public hearing thereon on October 27, 2015 after notice complying with §11-4-16(B), W.M.C., and has recommended approval of the requested amendments.

c. Notice of the public hearing before Council has been provided in compliance with §11-4-16(D), W.M.C.

d. The Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendment.

e. The owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Plan, particularly the policies for the R-2.5 designation that encourages single-family detached residences located away from activity centers where land use and development characteristics are suburban.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Plan to change the designation(s) of the property from R-3.5 to R-2.5, from Private Park/Private Open Space to R-2.5 and City Open Space, and from City Open Space to Private Park/Private, as depicted on the map attached hereto as Exhibit A.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. This ordinance shall take effect upon its passage after second reading.

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of November, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of December, 2015.

Mayor

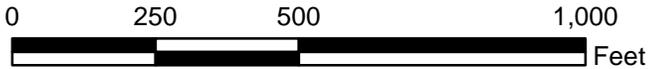
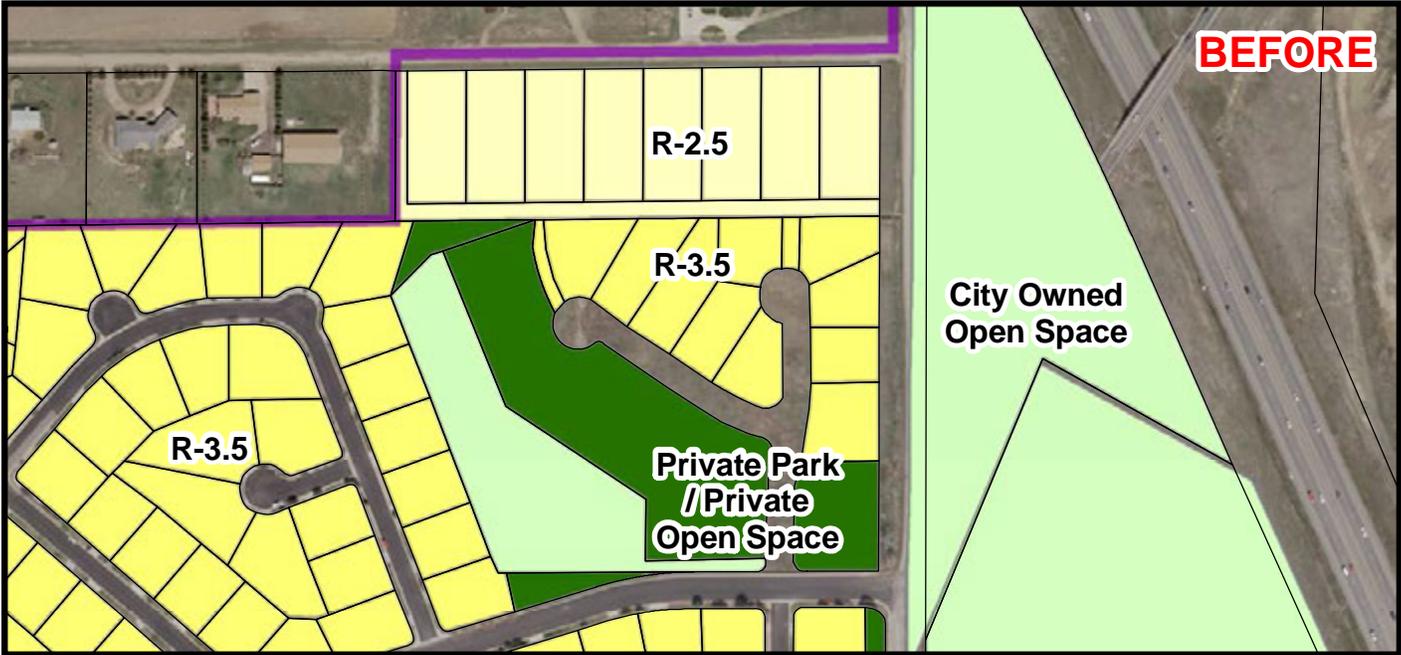
ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

EXHIBIT A



**Comprehensive Plan Map Changes:
WINTERS SUBDIVISION, FILING 1**



Agenda Item 8 S

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Second Reading of Councillor's Bill No. 53 Vacating a portion of Yukon Street and all of Yukon Circle as shown on the Winters South Subdivision Plat

Prepared By: Lonnie J. Henderson, Engineering Project Specialist

Recommended City Council Action

Pass Councillor's Bill No. 53 on second reading vacating all street rights-of-way dedicated on the Winters South Subdivision Plat.

Summary Statement

- Winters South Subdivision is bounded by Wadsworth Boulevard on the east, 110th Avenue on the south and Green Knolls Subdivision on the west.
- In October of 2007, a final plat was approved for Winters South Subdivision. This plat was prepared by the developer in order to define lots for the construction of ten single family homes.
- Since 2007, no public utilities or other public improvements have been installed and no homes have been built at Winters South Subdivision. The property has been sold to a different developer and is now being combined with the property to the north to facilitate a larger development. It will be necessary for a new plat to be prepared for this larger, proposed development.
- The street rights-of-way dedicated by the earlier plat must be vacated by Ordinance in order to comply with the Westminster Municipal Code and Colorado Statutes.
- A depiction of the streets to be vacated is included as Exhibit A to this memo.
- This Councillor's Bill was passed on first reading on November 23, 2015.

Expenditure Required: \$0
Source of Funds: N/A

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments: Ordinance

BY AUTHORITY

ORDINANCE NO. **3810**

COUNCILLOR'S BILL NO. **53**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Seitz - Pinter

A BILL

FOR AN ORDINANCE VACATING ALL STREET RIGHTS-OF-WAY DEDICATED ON THE
WINTERS SOUTH SUBDIVISION PLAT

WHEREAS, BN MORRIS DEVELOPMENT LLC, the owner of property bounded by old Wadsworth Boulevard, W. 110th Avenue, Green Knolls Subdivision, and Winters North Subdivision, and specifically described as the Winters South Subdivision, has requested the City vacate all street rights-of-way dedicated on the final plat for Winters South Subdivision; and

WHEREAS, the City Council finds that all requirements for roadway vacation contained in the Westminster Municipal Code and applicable state statutes have been met.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council determines that no present or future public access need exists for the areas proposed for vacation.

Section 2. All street rights-of-way dedicated by the plat for the Winters South Subdivision, as recorded at Reception No. 2007121066 in the records of the Clerk and Recorder for Jefferson County, Colorado, are hereby vacated, pursuant to Section 43-2-303(1)(a), C.R.S. and Section 11-6-9(A), W.M.C.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of November, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2015.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Second Reading of Councillor's Bill No. 54 re Proposed Economic Development Agreement with Comenity Servicing LLC, the servicing agent for Alliance Data Systems Corporation

Prepared By: Chris Gray, Economic Development Officer

Recommended City Council Action

Pass Councillor's Bill No. 54 on second reading authorizing the City Manager to execute and implement an Economic Development Agreement with Comenity Servicing LLC, the servicing agent for Alliance Data Systems Corporation.

Summary Statement

- Alliance Data is a leading provider of marketing, loyalty and credit programs for clients. Clients are predominantly in consumer industries.
- Comenity Servicing LLC, the entity with which the City will execute the proposed Economic Development Agreement (EDA), is the servicing agent for Alliance Data and was designated by Alliance Data to enter into the EDA with the City.
- Alliance Data currently has a significant presence in Westminster. The company is one of the City's ten largest private employers with 543 employees. Employees work in customer support functions in the company's call center.
- Alliance Data plans to expand its customer service capabilities and build a new 53,090-square foot office building in Westminster to house 600 new customer care employees.
- Alliance Data commenced construction on its new building in June, 2015.
- Assistance is based on the City's desire to attract and retain primary jobs and to cultivate and offer a wide array of employment opportunities in our community.
- Should Alliance Data decide to move this new call center out of Westminster within five years of the approval of this EDA, the assistance would have to be reimbursed to the City by the company.
- This Councillor's Bill was passed on first reading on November 23, 2015.

Expenditure Required: Approximately \$100,000 (Rebates)

Source of Funds: The EDA with Comenity Servicing LLC, servicing agent for Alliance Data, will be funded through revenue received from permit fees, construction use tax, and sales and use tax on equipment, furniture and fixture purchases for the Alliance Data project.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Ordinance with Exhibit A

BY AUTHORITY

ORDINANCE NO. **3811**

COUNCILLOR'S BILL NO. **54**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Pinter - Seitz

A BILL

**FOR AN ORDINANCE AUTHORIZING THE ECONOMIC DEVELOPMENT AGREEMENT
WITH COMENITY SERVICING LLC, SERVICING AGENT FOR ALLIANCE DATA**

WHEREAS, the successful attraction and retention of expanding primary businesses in the City of Westminster maintains and increases the pool of high paying jobs and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for businesses to expand or relocate in the City; and

WHEREAS, Alliance Data plans to expand its operation, building a new 53,090 square foot building to employ 600 new employees; and

WHEREAS, a proposed Economic Development Agreement between the City and Comenity Servicing LLC, the servicing agent for Alliance Data, is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with Comenity Servicing LLC, the servicing agent for Alliance Data, in substantially the same form as the one attached as Exhibit "A" and, upon execution of the Agreement, to fund and implement said Agreement.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of November, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of December, 2015.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit A
ECONOMIC DEVELOPMENT AGREEMENT
FOR
COMENITY SERVICING LLC

THIS ECONOMIC DEVELOPMENT AGREEMENT is made and entered into this ___ day of _____, 2015, between the CITY OF WESTMINSTER (the "City") and COMENITY SERVICING LLC, a Texas limited liability company doing business in Colorado (the "Company").

WHEREAS, the City wishes to provide assistance to aid in the expansion of the Company in the City; and

WHEREAS, the Company plans to occupy a new 53,090 square foot building at 855 W. 122nd Avenue (the "new facility") for the purpose of housing a customer care call center to house 600 new employees, thus providing primary job growth within the City; and

WHEREAS, City Council finds the execution of this Economic Development Agreement will provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and the Company agree to the following:

1. Building Permit Fee Rebates. The City shall rebate to the Company 25% of the building permit fees that are otherwise required under W.M.C. Section 11-9-3 (E) for the construction of the company's new facility. This rebate excludes water and sewer tap fees. The permit fee rebate will be approximately \$15,030.

2. Use Tax Rebate-Construction. The City shall rebate to the Company 25% of the Building Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials used in the construction of its new facility as required under W.M.C. Sections 4-2-9 and 4-2-3. The rebate of use tax on construction materials will be approximately \$38,297.

3. Sales and Use Tax Rebate – Furniture and Fixtures. For the period of 6 months prior and 6 months after a Certificate of Occupancy is issued or a final inspection is passed for the new facility, the City will rebate 25% of the Westminster General Sales and Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on equipment and furnishings purchased by the Company for the new facility. The rebate will be approximately \$51,321.

- a. The rebate shall include use tax paid directly to the City by the Company, and/or sales tax collected from the Company and remitted to the City by City licensed businesses.
- b. Rebates will be based on the documentation prescribed by the City and provided by the Company which illustrates purchases or delivery of any such furnishings, fixtures, or equipment that occurred within the City of Westminster for the new facility and that taxes were paid to and collected by the City.

4. Payments of Rebates.

- a. The total rebate is not to exceed \$100,000. The Company will file returns and pay City sales and use taxes due no less frequently than on a calendar quarter. Rebates shall be calculated for each calendar quarter based upon revenue actually received by the City in connection with the opening and operation of the new facility.
 - i. If the total amount of a quarterly rebate due to the Company is at least \$1,000, the rebate will be paid within thirty (30) days following the end of the calendar quarter.
 - ii. If the total amount of a quarterly rebate due to the Company is less than \$1,000, such rebate will be added to the next quarterly rebate due until the total amount to be rebated is at least \$1,000. The accumulated amount of such rebates will then be paid within thirty (30) days following the end of the most recent calendar quarter reported.

- iii. Payments shall commence for the calendar quarter during which final occupancy approval is granted.
 - iv. No payment of the use tax on construction material provided for in Paragraph 2 above will be made until the City approves a Construction Project Cost Report for construction of the Company's new facility at 855 West 122nd Avenue and the Company obtains a release from the general contractor(s) related to the City's disclosure of confidential tax information used in reconciling the building use tax.
 - v. No payment shall be made until the Company has obtained a City of Westminster business license for the new facility.
 - vi. All payments by the City shall be made electronically to the Company's designated financial institution or other account.
- b. In the event the Company fails to comply in any material respect with provisions of the City regulations or code relative to the development, use, occupancy or operation of the project the City may, after providing the Company with not less than ten (10) days advance written notice, suspend payment of the quarterly installments until the Company complies with such provisions of the City regulations or code.

5. Entire Agreement. This Agreement shall constitute the entire agreement between the City and the Company and supersedes any prior agreements between the parties and their agents or representatives related to the same subject matter, all of which are merged into and revoked by this Agreement with respect to its subject matter.

6. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if the Company has not moved into the new facility by December 31, 2016 or should the Company not comply with the City regulations or code.

7. Business Termination. In the event the new facility ceases to conduct business operations within the City at any time prior to March 31, 2021 for reasons solely within the discretion or control of Company, including but not limited to reorganization, restructuring, dissolution or bankruptcy, then the Company shall pay to the City within sixty (60) days of business termination the total amount of fees and taxes that were paid by or for the Company for the new facility to the City and were subsequently rebated by the City to the Company pursuant to this Agreement.

8. Subordination. The City's obligations pursuant to this agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

9. Annual Appropriation. Nothing in this agreement 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 hereunder are expressly conditional upon annual appropriation by the City Council.

10. Governing Law: Venue. This agreement shall be governed and construed in accordance with the laws of the State of Colorado. This agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. 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 good faith the services of a mutually acceptable, qualified, and experienced

mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Adams County, Colorado.

COMENITY SERVICING LLC

CITY OF WESTMINSTER

Bruce McClary
VP, Bus Integration & Prod Sup

Donald M. Tripp
City Manager

NOTARY:

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No. 3811



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Second Reading of Councillor’s Bill No. 55 re 2015 3rd Quarter Budget Supplemental Appropriation

Prepared By: Karen Barlow, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 55 on second reading, providing for a supplemental appropriation of funds to the 2015 budget of the General, Storm Drainage, and General Capital Improvement Funds.

Summary Statement

- City Council action is requested to adopt the attached Councillor’s Bill on second reading, authorizing a supplemental appropriation to the 2015 Budget of the General, Storm Drainage, and General Capital Improvement Funds
 - General Fund amendments total: \$ 173,497
 - Storm Drainage Fund amendments total: \$ 456,611
 - General Capital Improvement Fund amendments total: \$ 25,000
- This Councillor’s Bill was approved on first reading on November 23, 2015.

Expenditure Required: \$655,108

Source of Funds: The funding sources for these budgetary adjustments include grants, reimbursements, program revenue, intergovernmental, and sale of assets.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO. **3812**

COUNCILLOR'S BILL NO. **55**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Baker - Pinter

**A BILL
FOR AN ORDINANCE AMENDING THE 2015 BUDGETS OF THE GENERAL, STORM
DRAINAGE, AND GENERAL CAPITAL IMPROVEMENT FUNDS, AND AUTHORIZING A
SUPPLEMENTAL APPROPRIATION FROM THE 2015 ESTIMATED REVENUES IN THE
FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2015 appropriation for the General, Storm Drainage, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3737 is hereby increased in aggregate by \$655,108. This appropriation is due to the receipt of funds from grants, reimbursements, program revenue, intergovernmental, and sale of assets.

Section 2. The \$655,108 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 H dated November 23, 2015 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$173,497
Storm Drainage Fund	456,611
General Capital Improvement Fund	<u>25,000</u>
Total	<u>\$655,108</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of November, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of December, 2015.

ATTEST:

Mayor

City Clerk



City Council Meeting
December 14, 2015



SUBJECT: Public Hearing on the 4th Amendment to the Preliminary Development Plan Church Ranch Home Place and the 13th Amendment to the Official Development Plan Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2

Prepared By: Stephanie Ashmann, Planner

Recommended City Council Action

1. Hold a public hearing.
2. Approve the 4th amendment to the Preliminary Development Plan of Church Ranch Home Place based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.
3. Approve the 13th Amendment to the Official Development Plan of Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2, based on a finding that the criteria set forth in Section 11-5-15 of the Westminster Municipal Code have been met.

Summary Statement

- The proposed amendments to the Church Ranch Home Place Preliminary Development Plan (PDP) and Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2 Official Development Plan (ODP) pertain to a developed parcel at the northeast corner of 103rd Avenue and Wadsworth Boulevard.
- The applicant is requesting to add an Animal Day Care/Boarding land use to the PDP and make minor external site modifications in conjunction with adding the proposed land use within the ODP.
- The proposed Animal Day Care/Boarding land use addition is only affecting Lot 2, the 3rd Replat of Filing 1, Lot 2 of the ODP.
- An Animal Day Care/Boarding facility is consistent with the Flex/Light Industrial Comprehensive Plan Designation. The Flex/Light Industrial designation contemplates more intensive uses such as manufacturing and assembly, warehousing and distributing, and office generally located away from residential. The location of the proposed facility is within an office, manufacturing, research and development, and warehousing and distribution complex and Staff believes is compatible with the surrounding uses.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Recommendation

The Planning Commission reviewed this proposal on November 10, 2015, and voted unanimously (7-0) to recommend the City Council approve the proposed 4th amendment for the Preliminary Development Plan (PDP) of Church Ranch Home Place and the proposed the 13th Amendment to the Official Development Plan (ODP) of Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2 based on the findings that that the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code have been met.

Policy Issues

- Should the City approve an amendment to the Church Ranch Home Place PDP for the addition of Animal Day Care/Boarding facilities as an allowable land use?
- Should the City approve an amendment to the Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2, ODP for the addition of an Animal Day Care/Boarding facility with an external exercise and play yard?

Alternatives

1. City Council could deny the amendment to the PDP for Church Ranch Home Place. If denied, the City could prevent the possible negative impacts of noise and odor issues for the surrounding tenants. However, if approved, the amendment would provide the City of Westminster citizens with a service that is not a widely available land use and business within the City. Denying this amendment is not recommended because staff believes the addition of the land use is in conformance with the Comprehensive Plan and is compatible with the list of allowed uses within the PDP.
2. City Council could deny the amendment to the Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2, ODP. If denied, the City could prevent the possible negative impacts of noise and odor issues for the surrounding tenants. However, if approved, the amendment would provide the City of Westminster citizens with a service that is not a widely available land use and business within the City. Denying this application is not recommended because staff believes the addition of the land use is in conformance with the Comprehensive Plan and is compatible with the list of allowed uses within the ODP.

Background InformationNature of Request

The applicant is proposing to add the following land use to the Church Ranch Home Place PDP and Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2, ODP:

Animal Day Care/Boarding Facility: A facility where no-livestock animals may be groomed, trained, exercised, socialized, and boarded. The facility may not breed or sell animals, nor shall animals be boarded outside overnight. Outdoor runs or other outdoor areas are permitted.

As part of the ODP amendment, if approved, a 1,509-square foot outdoor exercise and play area will be added to the south side of the building on Lot 2 (Attachment D – Site Plan Overlay). The outdoor area will be enclosed by an eight-foot tall masonry wall. The materials and colors of the masonry wall will be harmonious and compatible with surrounding building materials within Filing 1 – 3rd Replat of the Planned Unit Development.

Location

The proposed location for the Animal Day Care/Boarding facility is at 7577 West 103rd Avenue within the Church Ranch Home Place Filing No. 1, 3rd Replat, Lot 2 ODP Planned Unit Development (PUD) (Attachment A – Vicinity Map).

Public Notification

Westminster Municipal Code 11-5-13 requires the following public notification procedures for amendments to PDPs when a new land use is being added to a list of allowable land uses within a PUD.

- **Published Notice:** Notice of public hearings scheduled before City Council shall be published and posted at least 4 days prior to such hearing. Notice was published in the Westminster Window on November 26, 2015.
- **Property Posting:** Notice of public hearings before the City Council shall be posted at least 10 days prior to the hearing on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. One sign was posted on the property on December 3, 2015.
- **Written Notice:** At least 10 days prior to the date of the City Council public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. The notices were mailed on December 3, 2015.

Property Owner

Scott Kaufman
62 Cooper Square, Unit 3B
New York, New York 10003

Applicant on Behalf of Property Owner

Camp Bow Wow
Renuka Salinger
8820 West 116th Circle, Unit D
Broomfield, CO 80021

Surrounding Land Use and Comprehensive Plan Designation

	Development Name	Zoning	Comprehensive Plan Designation	Use
North	Sensory Park / Walnut Creek Open Space	PUD	City Owned Open Space	Public Park/ Recreation
West	Unincorporated Jefferson County	SR-1	NE Comp. Plan – C	Residential
	Church’s Stage Stop Open Space	O1	City Owned Open Space	Open Space
East	Church Ranch Home Place Filing 1 - 3 rd Replat	PUD	Flex/Light Industrial	Medical Office
South	Church Ranch Home Place Filing 3 - 1 st Replat	PUD	Office/Research & Development Low Intensity	Residential/Church /Vacant Land

(Attachment B – Zoning Map) (Attachment C – Comp. Plan Map)

Site Plan Information

The building at 7577 West 103rd Avenue is the furthest northeast building within the ODP. The amendment consists of the addition of an external outdoor exercise/play yard attached to the south side. The outdoor area will be enclosed by an eight foot tall masonry screen wall. The ground layer of the area will consist of eighteen inches of subgrade stone and geotextile fabric to filter and reduce the impacts of animal waste to the storm water system.

Circulation and Parking

The current parking and circulation for this site will not be adversely affected by the proposed land use, or the external exercise/play yard area. Section 11-7-4(B)(2)(e)(iii) of the Westminster Municipal Code requires 75 total spaces to be provided, and 101 spaces are currently on site. The outdoor play area is located on the south side of the building where the service access exists, which is away from the public street and main circulation drives. Ninety feet will remain between the edge of the masonry screen wall and the building to the south allowing for unobstructed internal service functionality and vehicle circulation.

Site & Landscape Design

As part of the ODP amendment, a 1,509 square foot outdoor exercise and play area will be added to the south elevation of the building on Lot 2. The outdoor area will be enclosed by an eight-foot tall masonry wall. The materials and colors of the masonry wall will be harmonious and compatible with surrounding building materials within Filing 1, 3rd Replat of the Planned Unit Development. The ground layer of the area will consist of eighteen inches of subgrade stone and geotextile fabric to filter and reduce the impacts of animal waste to the storm water system. Secondary egress will not be blocked as part of the enclosed outdoor area.

Public Land Dedication/Open Space

Public land dedication and open space dedication is not required as part of this amendment.

School Land Dedication

School land dedication is not required as part of this amendment.

Parks

Park dedication is not required as part of this amendment.

Architecture/Building Materials

The proposed eight foot masonry wall enclosing the exercise area shall match style, color, materials, and character of the existing buildings and masonry walls within the Church Ranch Home Place ODP.

Signage

Signage review is not required as part of this amendment.

Lighting

Lighting review is not required as part of this amendment.

Service Commitment Category

The service commitment competition does not apply to this amendment.

Referral Agency Responses

No opposition was expressed by any of the other agencies, or the City's departments that review proposed development.

Neighborhood Meeting(s) and Public Comments

A neighborhood meeting was held at the nearby Marriott Hotel on September 16, 2015. Present at this meeting were the applicant, design consultant, and the City's Principal Planner and Project Planner. No members of the public attended the meeting.

Westminster Municipal Code Requirements

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) *In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:*

1. *The Planned Unit Development (P.U.D.) zoning and the proposed land uses in the associated Preliminary Development Plan are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.*

The proposed land use addition to the Church Ranch Home Place PDP is in conformance with the City's Flex Light Industrial Comprehensive Plan designation, City Codes, ordinances, and policies. The animal day care/boarding facility has taken the appropriate steps to provide screening of their outdoor exercise area from the surrounding tenants by constructing an eight-foot tall masonry wall. The eight-foot tall wall will help mitigate potential noise impacts from barking dogs.

2. *The Preliminary Development Plan exhibits the application of sound, creative, innovative, and efficient planning principles.*

The addition of the proposed land use exhibits the application of efficient planning principles by allowing a use that is in conformance with the Comprehensive Plan Flex/Light Industrial designation. Though this in and of itself will not necessarily indicate sound planning principles, the location of this use within the site is an acceptable location for the types of impacts this typically generates.

3. *Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan (PDP).*

There are no exceptions to the City Code requirements.

4. *The PDP is compatible and harmonious with existing public and private development in the surrounding area.*

The proposed land use is harmonious with existing public and private development as identified within the larger boundary of the PDP and ODP. The surrounding uses are daytime office/industrial/research and development type of users with city owned open space to the north. Lot 2 of the 3rd Replat within Filing 1 is the only effected lot proposing the addition of the land use.

5. *The PDP provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.*

Staff believes that this criteria has been met. The proposed land use is appropriate for the site and its surrounding land uses. However, it is not located close to residential and has similar noise impacts of warehousing and distribution users within the PDP.

The additional use proposed is similar in character and traffic demand to the currently allowed uses and the existing development's circulation design has been designed to adequately handle the existing uses. No physical changes to the PDP site are proposed.

6. *The PDP has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.*

No adverse impacts are anticipated to existing or future development. The City worked with the applicant to find a mutually beneficial design solution that would mitigate the impacts of animal waste into the storm water system. The implementation of an eighteen inch deep subgrade of stone and geotextile fabric within the outdoor play and exercise area will decrease waste runoff and odor.

7. *Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions, and in a manner that creates minimum hazards for vehicles and pedestrian traffic.*

Streets, driveways, access points, and turning movements will not be negatively impacted by the additional land use.

8. *The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.*

Staff believes that this criteria has been met. No dedications are anticipated at this time.

9. *Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.*

The City's Utilities Division worked with the applicant to approve a variance for the allowance of a Zurn style, under sink, hair trap instead of the required 750 gallon interceptor as defined by code. To prevent the potential negative impact of animal waste runoff, the applicant will equip the ground layer of the outdoor area with eighteen inches of subgrade stone and geotextile fabric to act as a filtration system for storm water runoff.

10. *Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.*

The identification of performance standards were not required as part of this amendment. The addition of the proposed land use shall be reflected within the ODP.

11. *The applicant is not in default or does not have any outstanding obligations to the City.*
The applicant is in compliance with this criterion.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. *The plan is in conformance with all City Codes, ordinances, and policies.*
The plan complies with this criterion if the PDP is approved.
2. *The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).*
The existing PDP is being amended to allow for Animal Day Care/Boarding within Filing 1, 3rd Replat, Lot 2 only. The proposed use is suitable and acceptable for other uses identified within the existing PDP such as manufacturing, wholesale sales, and office.
3. *The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.*
Staff believes that this criteria is being met. The proposed land use and minor site modifications allow for a functioning animal day care/boarding facility to operate within an office/industrial PUD.

4. *For plans in PUD zones, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.*
There are no exceptions to the City Code requirements proposed.
5. *The plan is compatible and harmonious with existing public and private development in the surrounding area.*
The proposed land use is harmonious with existing public and private development as identified within the larger boundary of the ODP. The surrounding uses are daytime office industrial/research and development type of users with City-owned open space to the north. Lot 2 of the 3rd Replat within Filing 1 is the only affected lot proposing the addition of the land use.
6. *The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.*
The plan is compatible and harmonious with existing development and future development in the surrounding area. The surrounding uses are office/industrial/research and development in nature. The proposed animal day care/boarding facility is not any more intensive than the uses within the immediate PUD.
7. *The plan has no significant adverse impacts on future land uses and future development of the immediate area.*
No adverse impacts are foreseen upon future land uses or other development in the immediate area. Staff has determined that the use is compatible with the existing land uses within the PUD.
8. *The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.*
The proposed outdoor play area is located on the south side of the building where the service access is located away from the public street and main circulation drives. This screening is consistent with previously approved screening mechanisms within the site.
9. *Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.*
This criterion has been met by the site's conformance with Title XI of the Westminster Municipal Code and meeting of the design guidelines.
10. *The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.*
The proposed external modifications to the site are harmonious with existing enclosure/screening additions previously approved through minor ODP amendments. The contemplated eight-foot masonry wall enclosing the exercise area shall match style, color, materials, and character of the existing buildings and masonry walls within the Church Ranch Home Place ODP.
11. *Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.*
The proposed enclosure is intended to provide a noise and visual buffer from potential operational impacts, such as barking dogs and animal waste from surrounding tenants.
12. *Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.*
There are no proposed changes to the existing landscape on-site. Therefore, review of changes to the landscape are not part of this amendment. The property is in compliance with the criterion.
13. *Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.*

No additional streets are being proposed as part of this amendment. Therefore, the applicant is in compliance with the criterion.

14. *Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.*

The proposed outdoor play area is located on the south side of the building where the service access is located away from the public street and main circulation drives. Ninety feet will remain between the edge of the masonry screen wall and the building to the south allowing for unobstructed internal service functionality and vehicle circulation.

15. *Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.*

The existing site's pedestrian circulation is not being effected as part of this amendment. Therefore, the applicant is in compliance with the criterion.

16. *Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.*

To prevent the potential negative impact of animal waste runoff, the applicant will equip the ground layer of the outdoor area with eighteen inches of subgrade stone and geotextile fabric to act as a filtration system for storm water runoff.

17. *The applicant is not in default or does not have any outstanding obligations to the City.*

City staff has reviewed the existing ODP and have determined that the applicant is in compliance with this criterion.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

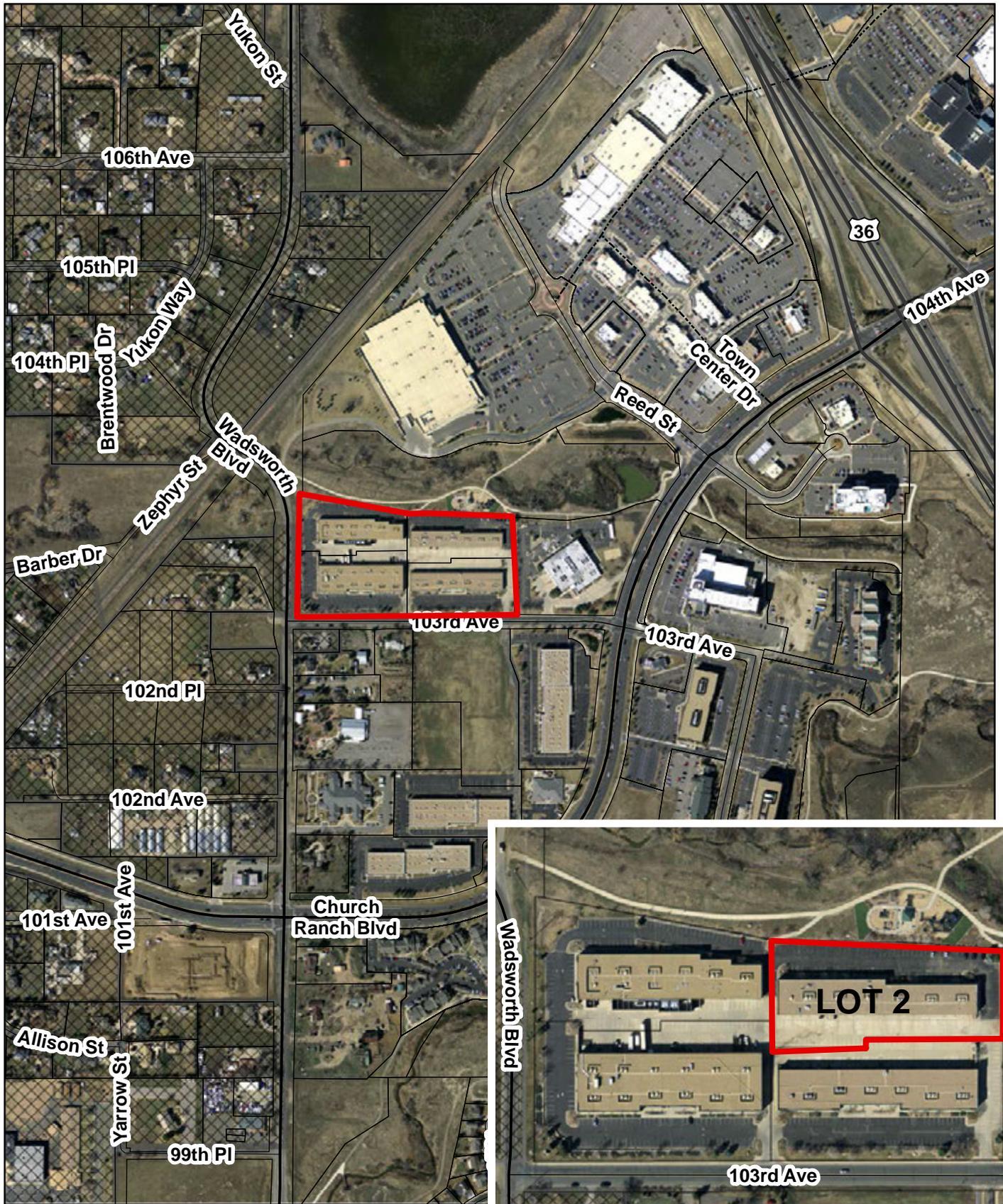
City Council Goals

1. The proposed land use change meets the City Council Strategic Plan goal of *Beautiful, Desirable, Safe and Environmentally Responsible City*. The City worked with the applicant to find a mutually beneficial design solution that would mitigate the impacts of animal waste into the storm water system. The implementation of an eighteen-inch deep subgrade of stone and geotextile fabric will decrease waste runoff and odor.
2. The proposed land use addition meets the City Council Strategic Plan goal of creating a *Dynamic and Diverse Economy*. The additional land use will strengthen the City by providing a wide array of economic opportunities through the employment 30-40 individuals for a Colorado-originated business.

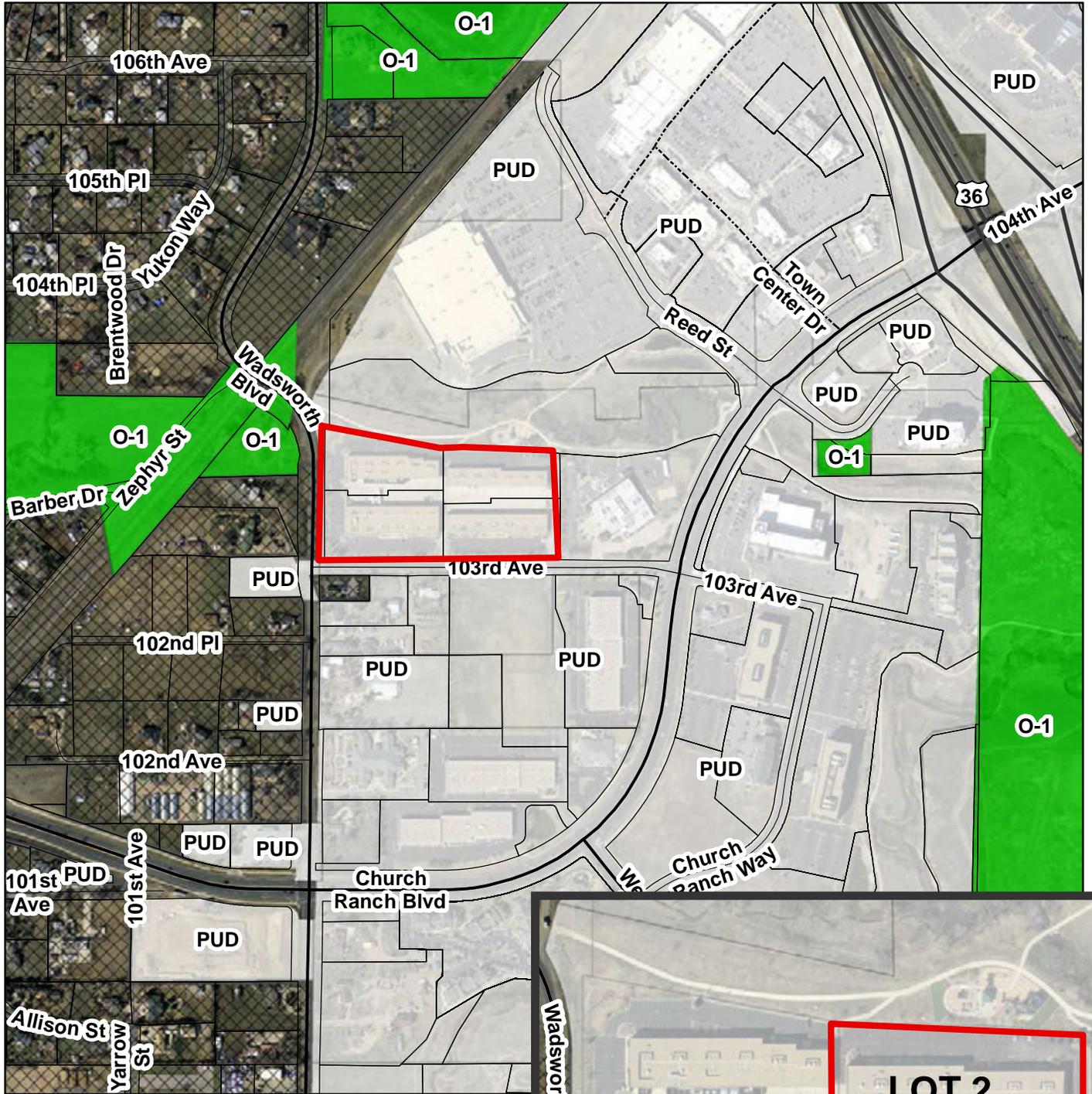
Respectfully submitted,

Donald Tripp
City Manager

- Attachment A – Vicinity Map
- Attachment B – Zoning Map
- Attachment C – Comprehensive Plan Map
- Attachment D – Site Plan Overlay
- Attachment E – Applicant's Submittal of PDP Church Ranch Home Place 4th Amendment
- Attachment F - Applicant Submittal of ODP Church Ranch Home Place Filing 1, 3rd Replat, Lot 2 13th Amendment



Church Ranch Home Place - Vicinity Map

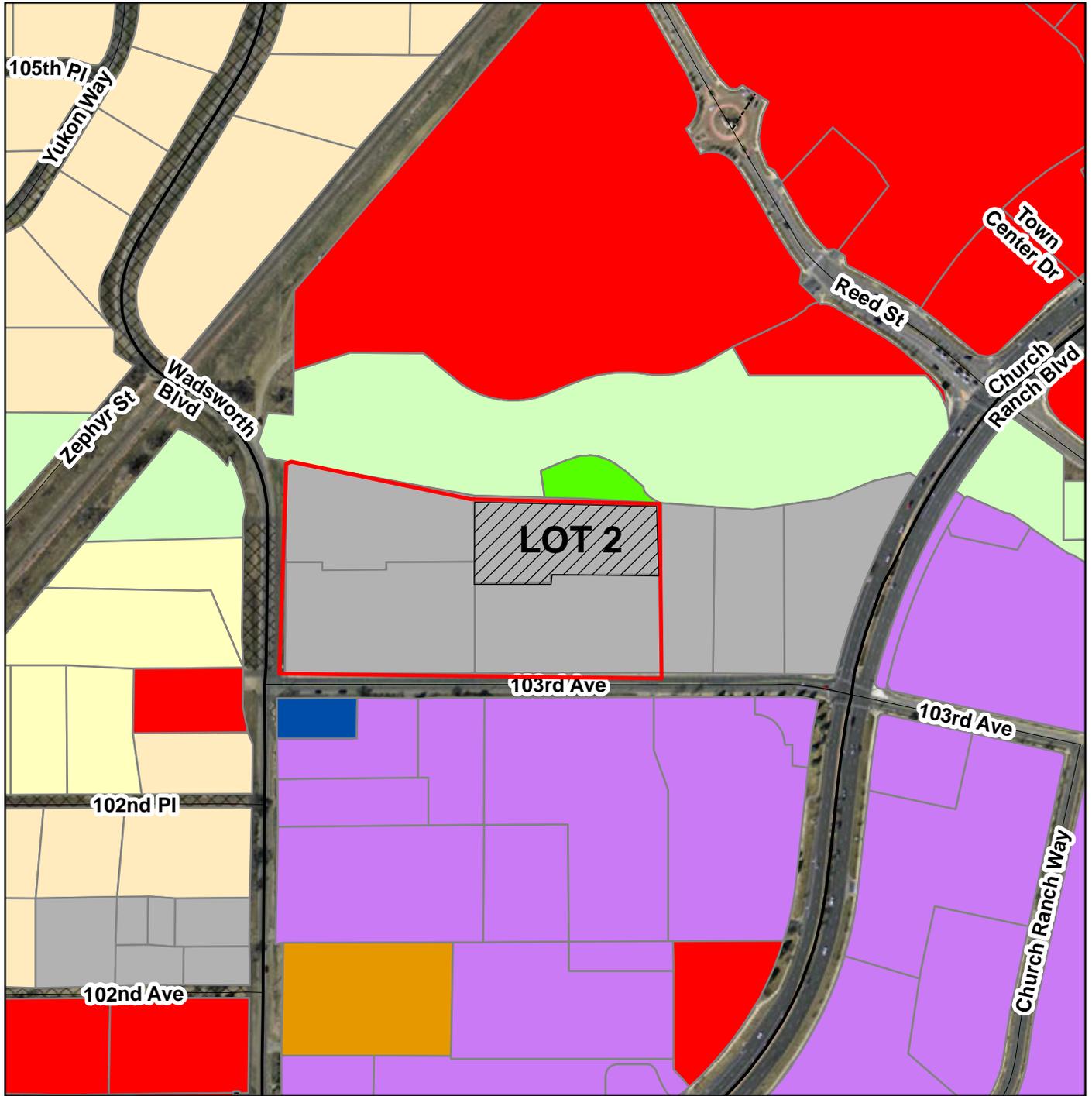


Legend

-  O-1
-  PUD
-  Enclave
-  City Limit



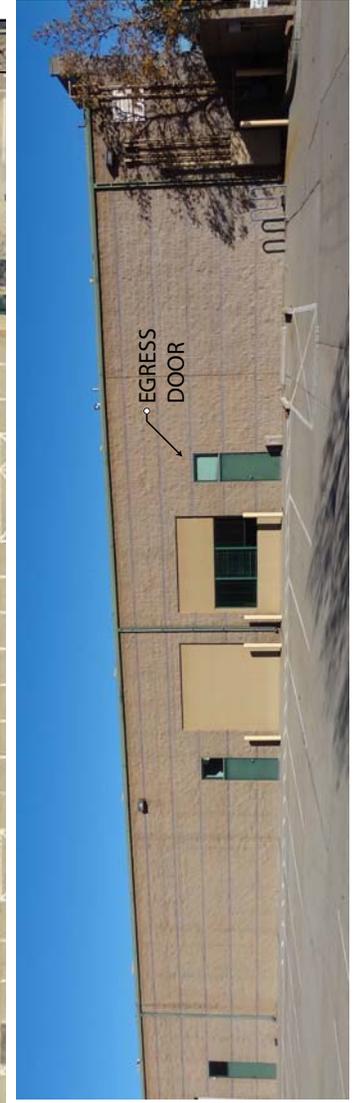
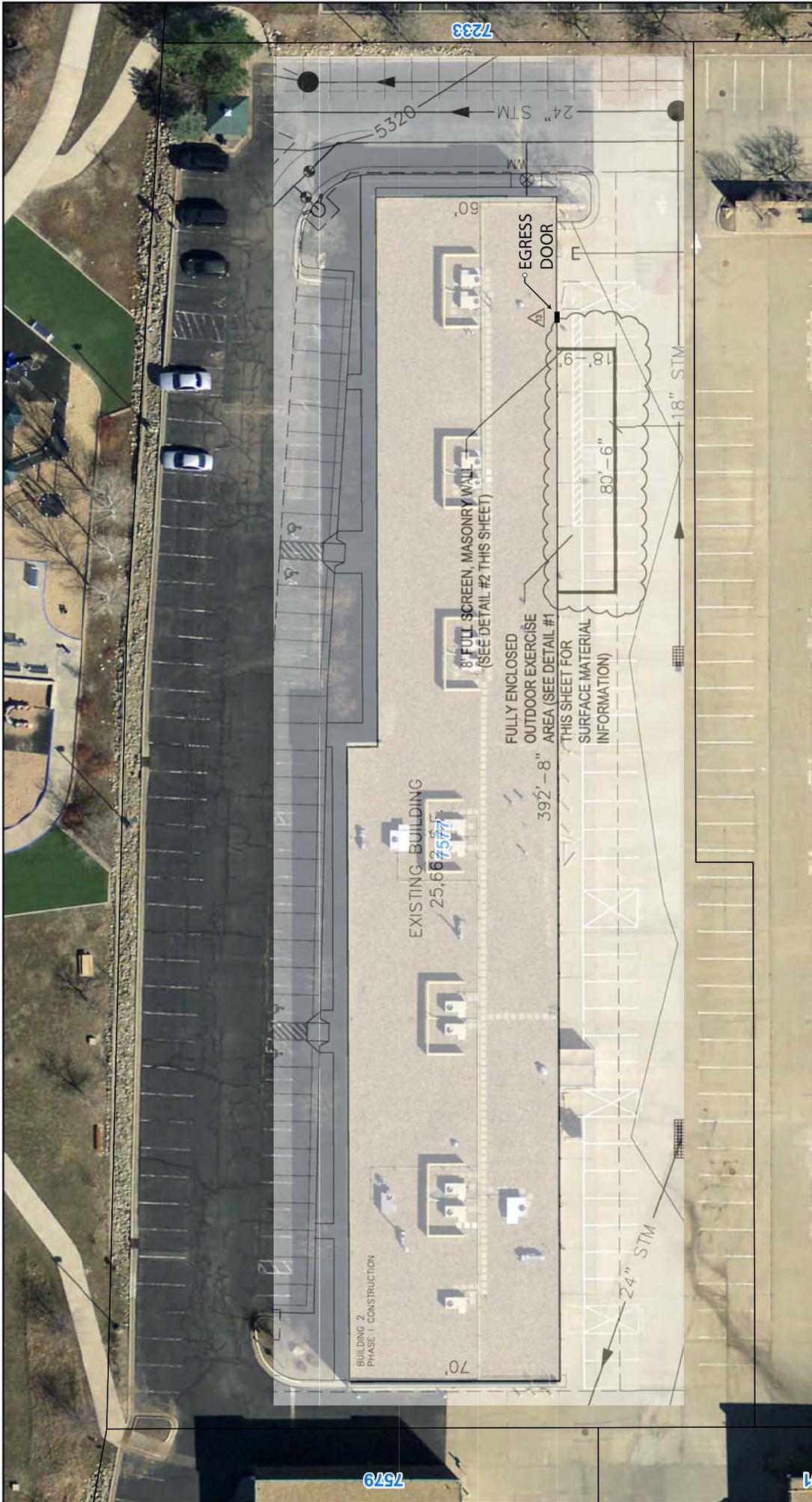
Church Ranch Home Place - Zoning Map



Legend

 R-1	 Retail Commercial	 Office/RD High	 Public Parks
 R-2.5	 Office	 Flex/Light Industrial	 Public/Quasi Public
 R-18	 Office/RD Low	 City Open Space	

Church Ranch Home Place - Comp. Plan



SITE PLAN OVERLAY

**FOURTH AMENDED PRELIMINARY DEVELOPMENT PLAN
CHURCH RANCH HOME PLACE**
A PLANNED UNIT DEVELOPMENT IN THE
CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO
SHEET 1 OF 2



1101 Bannock Street
Denver, Colorado 80204
P 303.892.1166
F 303.892.1186

PROJECT DESCRIPTION

THIS AMENDMENT REVISES THE PERMITTED USES FOR LOT 2, OF THE THIRD REPLAT OF CHURCH RANCH HOME PLACE FILING NO. 1 TO ALLOW ANIMAL DAY CARE/BOARDING USES.

LEGAL DESCRIPTION

LOT 2, THIRD REPLAT, CHURCH RANCH HOME PLACE FILING NO. 1.

PERMITTED USES

IN ADDITION TO THE USES PERMITTED IN THE ORIGINAL PDP (RECEPTION NO. 88080484) AND SUBSEQUENT AMENDMENTS; THE FOLLOWING USES ARE ALSO PERMITTED ONLY ON LOT 2:

- a. ANIMAL DAY CARE / BOARDING: A FACILITY WHERE NON-LIVESTOCK ANIMALS MAY BE GROOMED, TRAINED, EXERCISED, SOCIALIZED, AND BOARDED. THE FACILITY MAY NOT BREED OR SELL ANIMALS, NOR SHALL ANIMALS BE BOARDED OUTSIDE OVERNIGHT. OUTDOOR RUNS OR OTHER OUTDOOR EXERCISE AREAS ARE PERMITTED.

RECOVERY COSTS

NO RECOVERY COSTS ARE DUE AT THIS TIME. HOWEVER, ANY SUBSEQUENTLY OCCURRING RECOVERY COSTS SHALL ALSO BE EFFECTIVE AGAINST THE DEVELOPMENT. A RECOVERY COST IS STILL VALID AGAINST A DEVELOPMENT EVEN IF ITS IS UNDISCOVERED AND/OR INADVERTENTLY OMITTED FROM THE PRELIMINARY DEVELOPMENT PLAN.

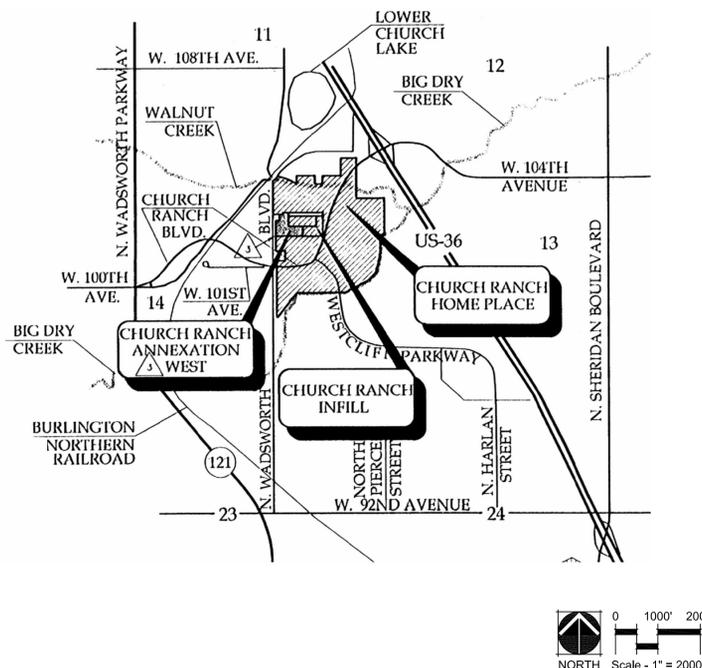
PLAN DURATION

IN THE EVENT THE DATE OF APPROVAL OF A PROPERTY'S PDP AMENDMENT IS MORE THAN FIVE (5) YEARS OLD AND AN ODP HAS NOT BEEN APPROVED, THE PDP OR AMENDED PDP SHALL BE REQUIRED TO BE SUBMITTED FOR REVIEW AND RECONSIDERATION IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 11-5-13 OF THE WESTMINSTER MUNICIPAL CODE, AND ALL APPLICABLE STANDARDS PURSUANT TO CHAPTER 5 OF TITLE XI, W.M.C.

FULL FORCE AND EFFECT

ALL PROVISIONS OF THE ORIGINAL PDP RECORDED AT RECEPTION NO. 88080484 AND SUBSEQUENT AMENDMENTS SHALL REMAIN IN FULL FORCE AND EFFECT, EXCEPT AS NOTED HEREIN.

VICINITY MAP



CONTACT INFORMATION

OWNER: LITCHFIELD CHURCH RANCH LLC SCOTT KAUFMAN 62 COOPER SQUARE, 3B NEW YORK, NEW YORK 10003 212.42.1412	PLANNER/APPLICANT REP.: NORRIS DESIGN RYAN MCBREEN 1101 BANNOCK STREET DENVER, COLORADO 80204 303.892.1166	ENGINEER MARTIN/MARTIN DAVID LOVATO 12499 WEST COLFAX AVENUE LAKEWOOD, COLORADO 80215 303.431.6100
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LITCHFIELD CHURCH RANCH LLC APPROVAL

I, _____ AS MEMBER OF LITCHFIELD CHURCH RANCH LLC, PROPERTY OWNER, DO SO APPROVE THIS PDP FOR REVIEW AND APPROVAL BY THE CITY OF WESTMINSTER THIS _____ DAY OF _____, 20____.

SIGNATURE

TITLE

CITY APPROVAL

APPROVED BY THE PLANNING COMMISSION OF THE CITY OF WESTMINSTER

THIS _____ DAY OF _____, 20____.

CHAIRMAN

ATTEST: CITY CLERK

(SEAL)

ACCEPTED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER

THIS _____ DAY OF _____, 20____.

MAYOR

ATTEST: CITY CLERK

(SEAL)

CLERK AND RECORDER'S CERTIFICATE:

RECEPTION NO. _____

ACCEPTED FOR FILING IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF JEFFERSON COUNTY AT GOLDEN, COLORADO ON THIS _____ DAY OF _____, 20____, AT _____ O'CLOCK ____M.

JEFFERSON COUNTY CLERK AND RECORDER

BY: DEPUTY CLERK

(SEAL)

CHURCH RANCH HOME PLACE
PRELIMINARY DEVELOPMENT PLAN - FOURTH AMENDMENT
WESTMINSTER, COLORADO

ISSUE DATE:
07/01/15

REVISION DATE:
09/23/15

SHEET TITLE:
COVER

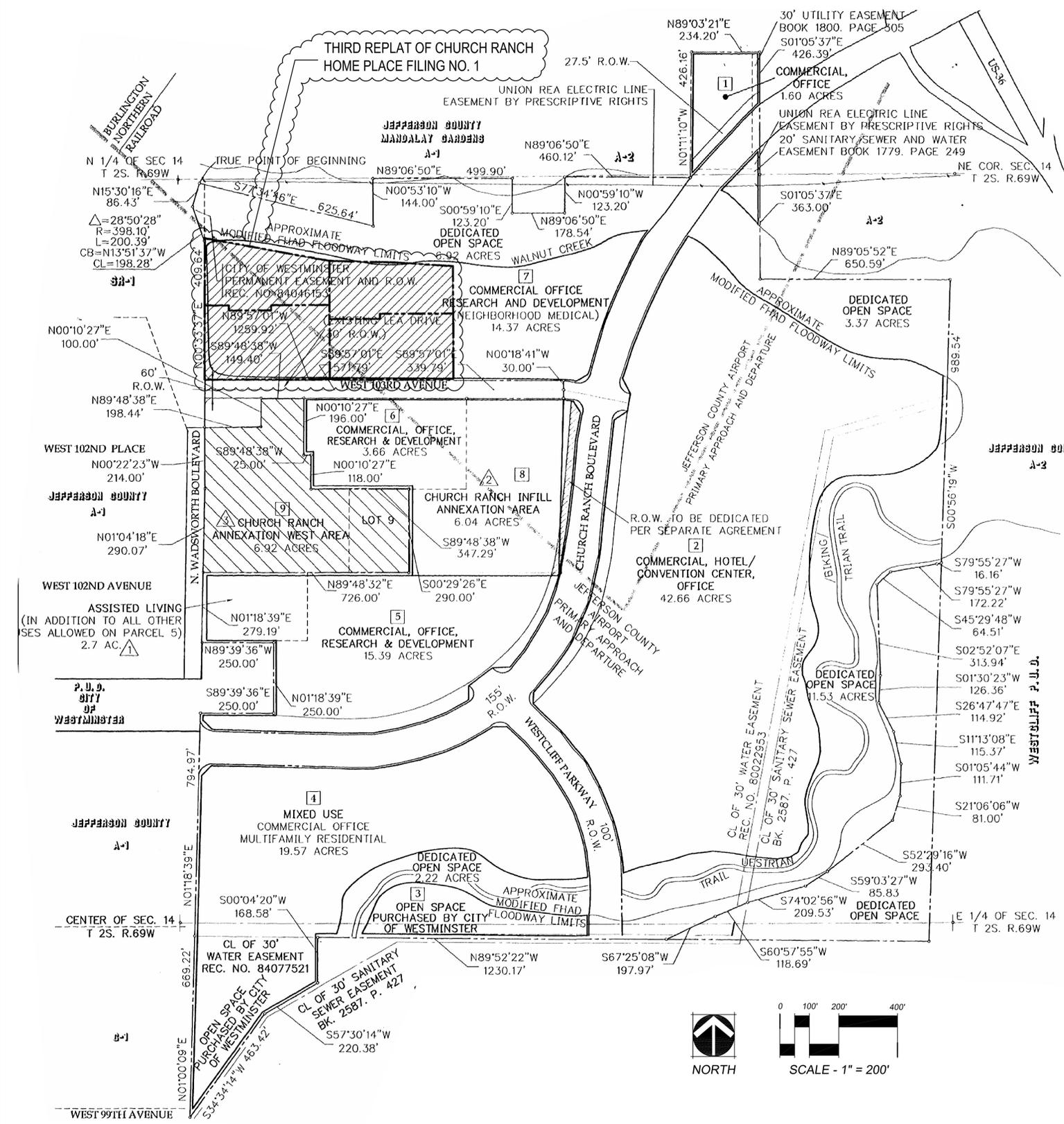
SHEET NUMBER:
1 OF 2

FOURTH AMENDED PRELIMINARY DEVELOPMENT PLAN
CHURCH RANCH HOME PLACE
 A PLANNED UNIT DEVELOPMENT IN THE
 CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO
 SHEET 2 OF 2

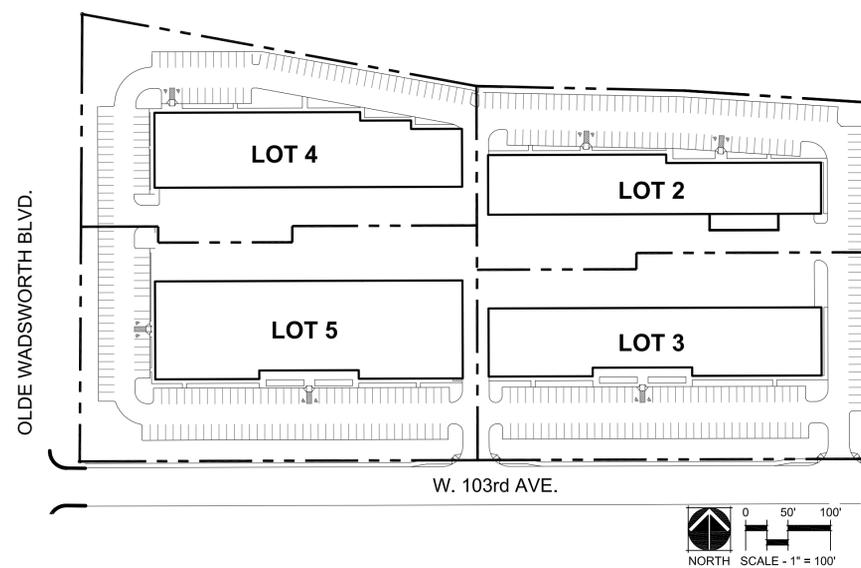


1101 Bannock Street
 Denver, Colorado 80204
 P 303.892.1166
 F 303.892.1186

CHURCH RANCH HOMEPLACE SITE PLAN

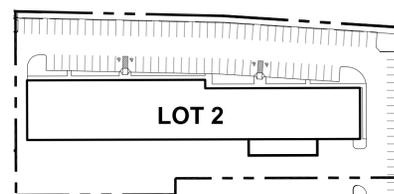


THIRD REPEAT OF CHURCH RANCH HOME PLACE FILING NO. 1 LOT PLAN



NOTE: THE ADDITIONAL "ANIMAL DAY CARE / BOARDING" USE PERMITTED AS PART OF THIS FOURTH AMENDED PRELIMINARY DEVELOPMENT PLAN (PDP) FOR THE CHURCH RANCH HOME PLACE SHALL ONLY BE PERMITTED ON LOT 2.

LOT 2 LOT PLAN



NOTE: THE ADDITIONAL "ANIMAL DAY CARE / BOARDING" USE PERMITTED AS PART OF THIS FOURTH AMENDED PRELIMINARY DEVELOPMENT PLAN (PDP) FOR THE CHURCH RANCH HOME PLACE SHALL ONLY BE PERMITTED ON LOT 2.

CHURCH RANCH HOME PLACE
 PRELIMINARY DEVELOPMENT PLAN - FOURTH AMENDMENT
 WESTMINSTER, COLORADO

ISSUE DATE:
07/01/15

REVISION DATE:
09/23/15

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
2 OF 2

**THIRTEENTH AMENDED OFFICIAL DEVELOPMENT PLAN
CHURCH RANCH HOME PLACE - FILING NO. 1 - 3RD REPLAT**
A PLANNED UNIT DEVELOPMENT
IN THE CITY OF WESTMINSTER
COUNTY OF JEFFERSON, STATE OF COLORADO
SHEET 1 OF 2

SHEET INDEX

COVER SHEET 01
SITE PLAN 02



1101 Bannock Street
Denver, Colorado 80204
P 303.892.1166
F 303.892.1186

LEGAL DESCRIPTION

LOT 2, THIRD REPLAT, CHURCH RANCH HOME PLACE FILING NO. 1. TOTAL 2.080 ACRES.

3rd REPLAT AMENDMENT HISTORY

- 10th AMENDMENT - THE INSTALLATION OF A 1125 kW UPGRADE, UNDERGROUND MAKEUP WATER STORAGE AND A NEW WALL FOR A FUTURE UTILITY YARD FOR BUILDING #3.
- 11th AMENDMENT - ALLOW TENANTS WITH OVER 20,000 SF OF TENANT SPACE TO HAVE LARGER SIGNAGE OUTSIDE THE SIGN BAND.
- 12th AMENDMENT - INSTALLATION OF A 20kW DIESEL GENERATOR TO PROVIDE STANDBY REFRIGERATION FOR LAB SPECIMENS IN THE EVENT OF A POWER OUTAGE.

CONTACT INFORMATION

OWNER: LITCHFIELD CHURCH RANCH LLC SCOTT KAUFMAN 62 COOPER SQUARE, 3B NEW YORK, NEW YORK 10003 212.42.1412	PLANNER/APPLICANT REP.: NORRIS DESIGN RYAN MCBREEN 1101 BANNOCK STREET DENVER, COLORADO 80204 303.892.1166	ENGINEER: MARTIN/MARTIN DAVID LOVATO 12499 WEST COLFAX AVENUE LAKEWOOD, COLORADO 80215 303.431.6100
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LITCHFIELD CHURCH RANCH LLC APPROVAL

I, _____ AS MEMBER OF LITCHFIELD CHURCH RANCH LLC, PROPERTY OWNER, DO SO APPROVE THIS ODP FOR REVIEW AND APPROVAL BY THE CITY OF WESTMINSTER THIS _____ DAY OF _____, 20____.

SIGNATURE _____ TITLE _____

CITY APPROVAL

ACCEPTED AND APPROVED BY THE CITY OF WESTMINSTER

THIS _____ DAY OF _____, 20__.

CITY MANAGER

ATTEST: CITY CLERK _____ (SEAL)

CLERK AND RECORDER'S CERTIFICATE:

RECEPTION NO. _____

ACCEPTED FOR FILING IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF JEFFERSON COUNTY AT GOLDEN, COLORADO ON THIS _____ DAY OF _____, 20____, AT _____ O'CLOCK ____M.

JEFFERSON COUNTY CLERK AND RECORDER

BY: DEPUTY CLERK _____ (SEAL)

CHURCH RANCH HOME PLACE
ODP - THIRTEENTH AMENDED- FILING NO. 1 - 3rd REPLAT
WESTMINSTER, COLORADO

PROJECT DESCRIPTION

THIS AMENDMENT REVISES THE PERMITTED USES FOR LOT 2 TO ALLOW ANIMAL DAY CARE/BOARDING USES AND ALSO AMENDS THE SITE PLAN TO ALLOW AN OUTDOOR RUN/EXERCISE YARD.

PERMITTED USES

IN ADDITION TO THE USES PERMITTED IN THE ORIGINAL ODP (RECEPTION NO. F0267600) AND SUBSEQUENT AMENDMENTS, THE FOLLOWING USES ARE ALSO PERMITTED ONLY ON LOT 2:

13. a. ANIMAL DAY CARE / BOARDING: A FACILITY WHERE NON-LIVESTOCK ANIMALS MAY BE GROOMED, TRAINED, EXERCISED, SOCIALIZED, AND BOARDED. THE FACILITY MAY NOT BREED OR SELL ANIMALS, NOR SHALL ANIMALS BE BOARDED OUTSIDE OVERNIGHT. OUTDOOR RUNS OR OTHER OUTDOOR EXERCISE AREAS ARE PERMITTED.

FULL FORCE AND EFFECT

ALL PROVISIONS OF THE ORIGINAL ODP RECORDED AT RECEPTION NO. F0267600 AND SUBSEQUENT AMENDMENTS SHALL REMAIN IN FULL FORCE AND EFFECT, EXCEPT AS NOTED HEREIN.

RECOVERY COSTS

NO RECOVERY COSTS DUE AT THIS TIME. HOWEVER, ANY SUBSEQUENTLY OCCURRING RECOVERY COSTS SHALL ALSO BE EFFECTIVE AGAINST THE DEVELOPMENT. A RECOVERY COST IS STILL VALID AGAINST A DEVELOPMENT EVEN IF ITS IS UNDISCOVERED AND/OR INADVERTENTLY OMITTED FROM THE PRELIMINARY DEVELOPMENT PLAN.

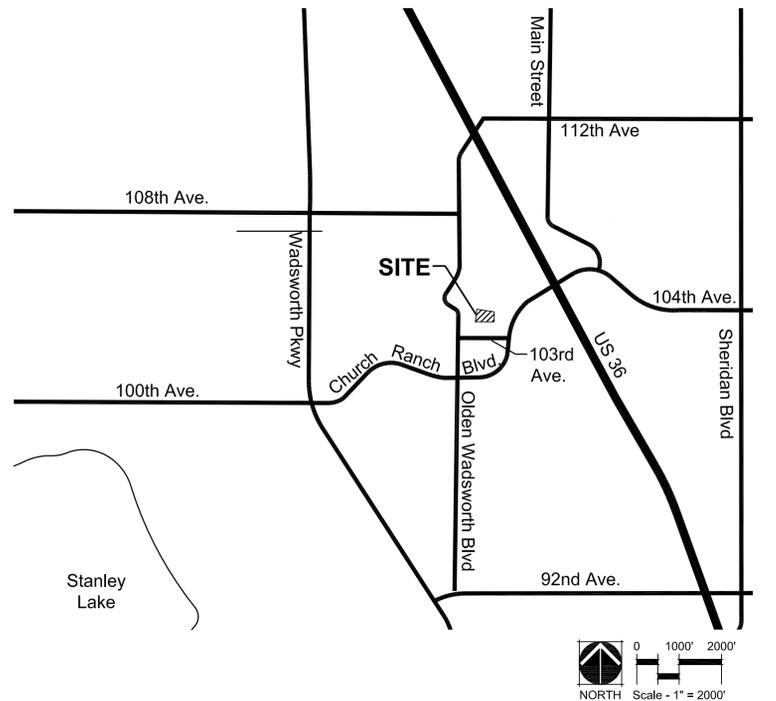
MAINTENANCE OF DRAINAGE IMPROVEMENTS:

IT IS EXPRESSLY UNDERSTOOD AND AGREED TO BY THE OWNER THAT THE INSTALLATION AND/OR MAINTENANCE OF ANT AND ALL DRAINAGE IMPROVEMENTS NEEDED TO SERVE THIS SITE, INCLUDING BUT NOT LIMITED TO OFF-SITE STORM DRAINAGE DETENTION FACILITIES IS AND REMAINS FOREVER THE RESPONSIBILITY OF THE OWNER, ITS HEIRS, SUCCESSORS, AND ASSIGNED AND WILL NOT BECOME THE PROPERTY OR MAINTENANCE RESPONSIBILITY OF THE CITY OF WESTMINSTER.

GENERAL NOTES

- A. ENGINEERED STORM WATER TREATMENT IMPROVEMENTS WILL BE REQUIRED AND IMPLEMENTED WITHIN THE OUTDOOR EXERCISE AND PLAY AREA TO MITIGATE NEGATIVE RUNOFF IMPACTS TO WALNUT CREEK FROM ANIMAL WASTE.

VICINITY MAP



ZONING AND LAND USE

CURRENT ZONING AND LAND USE: PUD
CURRENT COMP PLAN DESIGNATION: FLEX/LIGHT INDUSTRIAL

SURROUNDING LAND USES

	JURISDICTION	ZONING	USE	COMP PLAN DESIGNATION
NORTH	WESTMINSTER	PUD	PARKS/OPEN SPACE	CITY OWNED OPEN SPACE
EAST	WESTMINSTER	PUD	MEDICAL/OFFICE	FLEX/LIGHT INDUSTRIAL
SOUTH	WESTMINSTER	PUD	RESIDENTIAL/CHURCH/VACANT	OFFICE R&D LOW INTENSITY
WEST	UNINCORPORATED JEFFERSON COUNTY & WESTMINSTER	SR-1 & O1	RESIDENTIAL & CITY OPEN SPACE	NORTHEAST COMPREHENSIVE DEVELOPMENT PLAN - C & CITY OPEN SAPCE

LAND USE SUMMARY

	AREA	% OF LOT 2 AREA
LOT SIZE (LOT 2)	2.08 AC (90,592 SQ. FT.)	100%
EXISTING BUILDING SIZE (LOT 2)	25,662 SQ. FT.	28%

PARKING	REQUIRED	PROVIDED	DIFFERENCE (+/-)
HANDICAP	2	4	+2
STANDARD - OFFICE (1/300 SQ. FT.)	52*	97	+24
STANDARD - WAREHOUSE (1/500 SQ. FT.)	21*		
TOTAL	75	101	+26

* NOTE: ASSUMES A 60% OFFICE (15,397 SQ. FT.) TO 40% WAREHOUSE (10,265 SQ. FT.) SPLIT OF USES WITHIN EXISTING BUILDING.

ISSUE DATE:
07/01/15

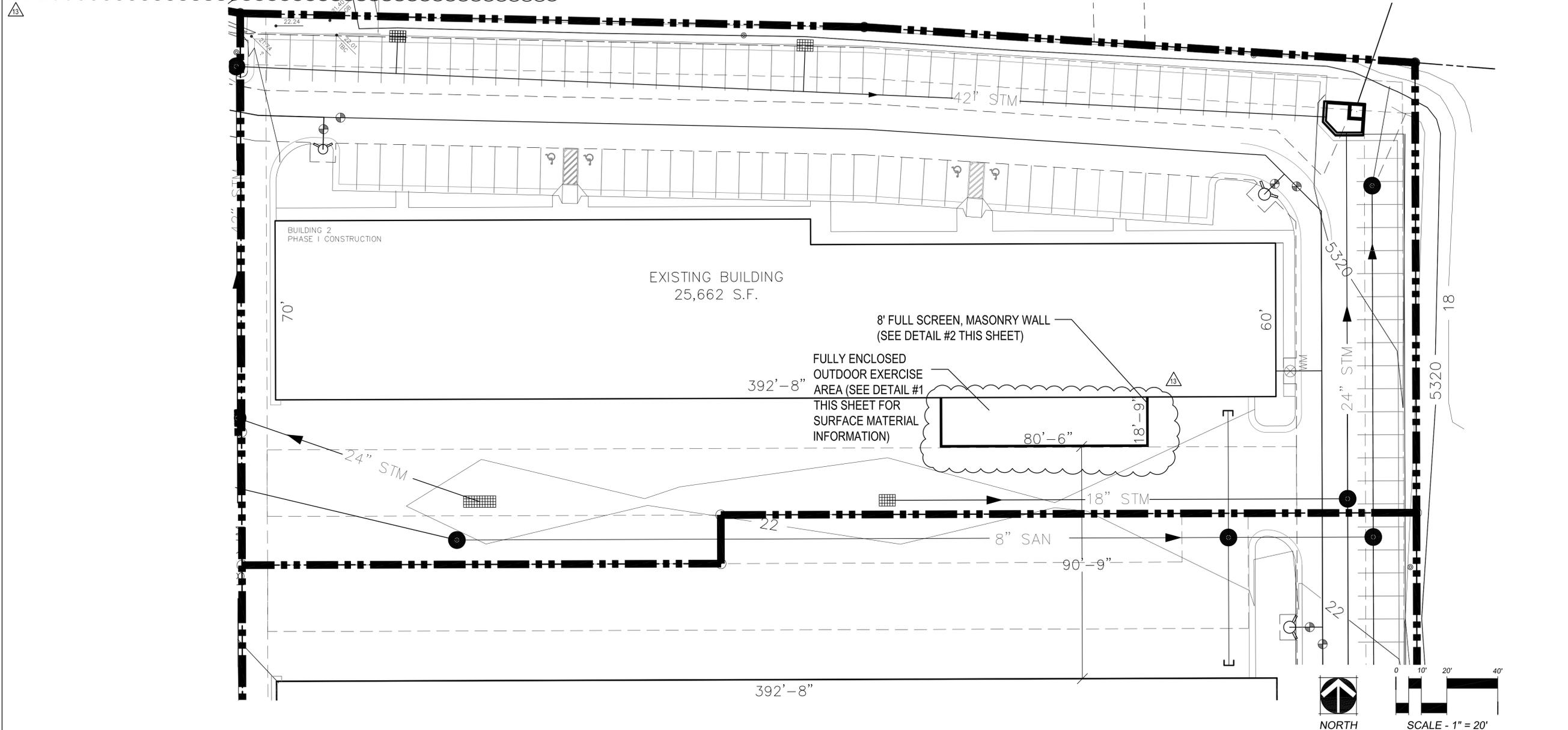
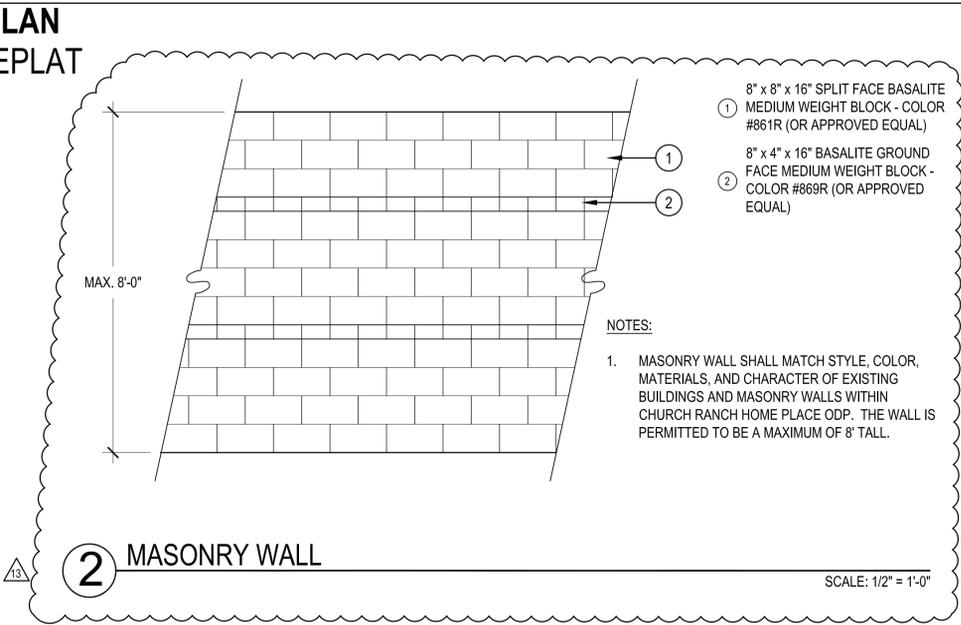
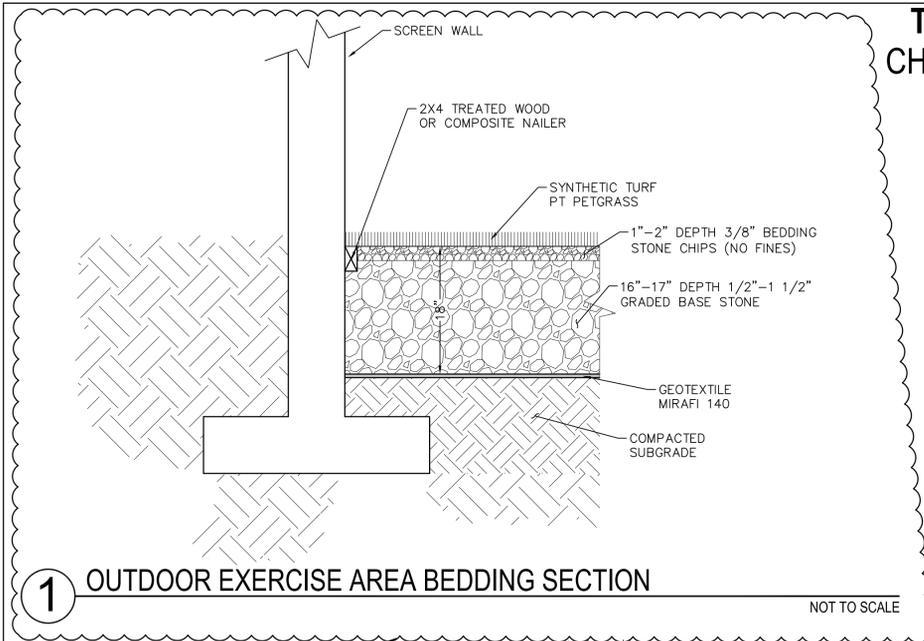
REVISION DATE:
09/23/15
10/08/15

SHEET TITLE:
COVER

SHEET NUMBER:
1 OF 2

THIRTEENTH AMENDED OFFICIAL DEVELOPMENT PLAN
CHURCH RANCH HOME PLACE - FILING NO. 1 - 3RD REPLAT
 A PLANNED UNIT DEVELOPMENT
 IN THE CITY OF WESTMINSTER
 COUNTY OF JEFFERSON, STATE OF COLORADO
 SHEET 2 OF 2

NORRIS DESIGN
 www.norris-design.com
 1101 Bannock Street
 Denver, Colorado 80204
 P 303.892.1166
 F 303.892.1186



CHURCH RANCH HOME PLACE
 ODP - THIRTEENTH AMENDED - FILING NO. 1 - 3RD REPLAT
 WESTMINSTER, COLORADO

ISSUE DATE:
 07/01/15

REVISION DATE:
 09/23/15
 10/08/15

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
2 OF 2



Agenda Item 10 D-F

Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Rocky Mountain High Intensity Drug Trafficking Area Grant Applications and Councillor's Bill No. 58 re Supplemental Appropriation of Federal Grant funds.

Prepared By: Lee Birk, Chief of Police
Todd Reeves, Police Commander
Karen Creager, Special District Accountant

Recommended City Council Action

1. Authorize the City to receive and administer the 2016 Rocky Mountain High Intensity Drug Trafficking Area Grant in the amount of \$334,379 on behalf of the North Metro Task Force.
2. Pass Councillor's Bill No. 58 on first reading appropriating grant monies to be received from the 2016 Rocky Mountain High Intensity Drug Trafficking Area Grant to the 2016 General Fund budget.
3. Authorize the submission of a grant application by the Police Department to Rocky Mountain High Intensity Drug Trafficking Area for an amount up to \$600,000 for the 2017 grant year to be applied to the operations of the North Metro Task Force.

Summary Statement

- In 1991, through an Intergovernmental Mutual Aid Agreement, the City of Westminster, including the Jefferson County portion of Westminster, along with Adams County, the City and County of Broomfield and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn and Thornton ("Parties"), established the North Metro Task Force (NMTF); a multijurisdictional drug task force.
- Subsequently, in 2007, the Parties agreed to the creation of the NMTF as a separate legal entity through an intergovernmental agreement (IGA). The IGA provides for rotation of the Host Agency responsibilities among the Parties every five (5) years.
- On October 1, 2014, the City became the Host Agency. As Host Agency, the City is responsible for the administration of the NMTF program, which includes management of grants.
- Funding for the NMTF includes an annual contribution based on population from each of the Parties, Federal/State Forfeiture funds, and grants. One such grant is the Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) Grant. The RMHIDTA requires the Host Agency to apply for, receive and administer the grant.
- As Host Agency, the City assumed the responsibility for the management of the RMHIDTA grant. This grant will not require a local match or a cost share.
- Per the City's grant policy, Staff is requesting City Council's authorization to receive, appropriate and administer the 2016 RMHIDTA grant in accordance with the NMTF IGA, as well as apply for the 2017 RMHIDTA grant.

Expenditure Required: \$334,379 in 2016

Source of Funds: Rocky Mountain High Intensity Drug Trafficking Area Grant

Policy Issues

- Should the City receive, appropriate and administer the 2016 RMHIDTA Grant of \$334,379 to fund equipment, overtime, investigative travel, personnel salary, equipment and other expenses for the North Metro Task Force in 2016?
- Should the City pursue 2017 grant funding up to \$600,000 from RMHIDTA to fund equipment, overtime, investigative travel, personnel salary, equipment and other expenses for the North Metro Task Force in 2017?

Alternatives

1. Do not authorize the City to receive, appropriate and administer the 2016 RMHIDTA Grant. As the Host Agency for the NMTF, the City is obligated by an IGA to administer the NMTF program and to provide support including grant administration. Failure to authorize the grant would put this crucial funding in jeopardy and would place the City in violation of its contractual obligation to the NMTF Parties. This alternative is not recommended.
2. Do not authorize the Police Department (PD) to submit an application for the 2017 RMHIDTA grant. Grant funding is contemplated as part of the total revenues to fund the NMTF operations. Without the grant funding, the Parties' annual out-of-pocket contributions would increase considerably. This alternative is not recommended.

Background Information

In 1991, through an Intergovernmental Mutual Aid Agreement, the City of Westminster, including the Jefferson County portion of Westminster, along with Adams County, the City and County of Broomfield and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn and Thornton (Parties), all participate in the North Metro Task Force (NMTF). The NMTF is a multijurisdictional drug task force.

Subsequently, in February of 2007, the Parties agreed, through an IGA, to the creation of the NMTF as a separate legal and public entity. Doing so provides for a more coordinated, effective manner for the Parties to confront many of the same challenges in connection with the identification, investigation and prosecution of individuals and groups involved in illegal trafficking of drugs and other criminal enterprises. The IGA also established the process for selecting a "Host Agency" to tend to the administrative duties of the NMTF on a five year rotation basis with October 1 as the transition date. On October 1, 2014, the City became the "Host Agency" to NMTF and is responsible for the administration of the NMTF program to include Finance, Budget Administration and managing all assets owned by NMTF. Prior to October 1, 2015, the NMTF's fiscal year was October 1 to September 30. On May 28th, the Board of Governors of NMTF changed the fiscal year to a calendar year to follow Local Government Budget Law of Colorado, C.R.S. 29-1-102 (9). The transition from a fiscal year to a calendar year will incorporate the 15 month period beginning October 1, 2015 and ending December 31, 2016.

Funding for the NMTF includes an annual contribution based on population from each of the Parties, Federal/State Forfeiture funds, and grants. The Federal and State Forfeiture funds are only available after an adjudication process decided by the appropriate court. The primary source of grant funding is the Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) Grant. The High Intensity Drug Trafficking Area (HIDTA) is a program within the Office of National Drug Control Policy (known as ONDCP). The mission of the HIDTA program is to disrupt the market for illegal drugs in the United States by assisting federal, state, local, and tribal law enforcement entities. The program places emphasis on drug trafficking regions that have harmful effects on other parts of the United States. The HIDTA program enhances and helps to coordinate drug trafficking control efforts among the various law enforcement agencies. HIDTA works to complement and support these agencies collaborating to fight drug trafficking. HIDTA funding allows HIDTA regional programs to be locally managed and coordinated to support the national mission. Specifically, HIDTAs have several functions; provide a coordination umbrella for local, state, and federal

drug law enforcement efforts; foster a strategy-driven, systems approach to integrate and synchronize efforts; and focus on outcomes.

HIDTA requires that the Host Agency of the NMTF apply for and administer the HIDTA Grant. The NMTF itself is not able to directly apply for the grant. As the Host Agency, the City is responsible for receiving and administering the 2016 RMHIDTA Grant. Notification of the 2016 grant award, in an amount of \$334,379, was received on June 10, 2015. Staff is requesting appropriation of the 2016 grant award at this time. Since the time period between presenting the 2016 grant award to Council and requesting authorization to submit an application for 2017 grant funds is limited, Staff has included both items in this agenda memo.

In the remaining four years as Host Agency, the Police Department will present these RMHIDTA grant administration items for City Council’s consideration in each calendar year. Throughout the course of each year, City Council may receive supplemental appropriation requests seeking to apply additional funding to the NMTF including an increase in RMHIDTA funding for special investigations and federal funding received through the Edward Byrne Memorial Justice Assistance Grant to assist with the City’s annual funding contribution to the NMTF.

The RMHIDTA includes regions of Colorado, Montana, Utah and Wyoming. The 2016 RMHIDTA grant program will allow reimbursement for the purchase of equipment, overtime, investigative travel, personnel salary, equipment and other expenses for NMTF and does not require a local match and/or a cost share to receive funding. Without this grant funding, the Parties would be required to increase their annual “out-of-pocket” contribution to the NMTF operations. Authorization for the grant from City Council will enable Westminster to fulfill its contractual obligations to the NMTF Parties and ensure continued operations of the NMTF in the spirit of the IGA.

Appropriation of the 2016 grant funding will amend General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Federal Grants	1000.40610.0000	\$35,000	\$334,379	\$369,379
Total Change to Revenues			<u>\$334,379</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contractual Services	10020300.67800.0344	\$95,711	<u>\$334,379</u>	\$430,090
Total Change to Expenses			<u>\$334,379</u>	

Action on this item supports the City’s Strategic Plan goals of Visionary Leadership, Effective Governance and Proactive Regional Collaboration and Financially Sustainable Government Providing Excellence in City Services.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Councillor’s Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **58**

SERIES OF 2015

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE 2016 BUDGET OF THE GENERAL FUND AND
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2016 ESTIMATED
REVENUES IN THE FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2016 appropriation for the General Fund initially appropriated by Ordinance No. 3737 is hereby increased by \$334,379. This appropriation is due to the award of federal grant funds from the Rocky Mountain High Intensity Drug Trafficking Area Grant for the continued operation of the North Metro Task Force.

Section 2. The \$334,379 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 D-F dated December 14, 2015 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$334,379</u>
Total	<u>\$334,379</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of December, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of December, 2015.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
December 14, 2015



SUBJECT: Confirmation of New City Clerk

Prepared By: Debbie Mitchell, General Services Director
Dee Martin, Human Resources Manager - Workforce

Recommended City Council Action

Confirm the appointment of Michelle Parker as the new City Clerk for the City of Westminster.

Summary Statement

- Linda Yeager will be retiring from the City of Westminster after ten years of service as City Clerk. Her intention is to retire in early 2016 although she will continue to work for a short period after the new City Clerk has started to assist in the transition.
- In September of 2015, Human Resources staff initiated the recruitment process for Ms. Yeager's replacement. A total of 59 applications were received.
- The selection process included the following:
 - Phone application screens were conducted with all qualified candidates;
 - A written assignment was given to the semi-finalists who moved forward from the application screening process;
 - In-person interviews were conducted with the six finalists;
 - The finalists were given an additional written assignment; and
 - A management profile assessment was completed on each finalist.
- The unanimous choice of everyone involved in the selection process was Ms. Michelle Parker. Ms. Parker has worked for Travis County in Austin, Texas since 2003 and currently serves as Assistant Director of Elections and Ms. Parker is a Certified Elections/Registration Administrator (C.E.R.A.) and has a Bachelor of Arts in Political Science from the University of Texas at San Antonio and is a graduate of the Women's Campaign School at Yale University. Ms. Parker is an Executive Board Member of the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT.) She was the recipient of The Eagle Award for Outstanding Innovation and Public Service in 2014 for IACREOT. Ms. Parker has an outstanding reputation as a dedicated and effective public servant. She received very positive recommendations from her current and former employers and other individuals with whom she has worked.
- Section 4.6 of the City Charter provides for the appointment of the City Clerk and the Finance Director by the City Manager with confirmation by the City Council. Ms. Parker has been offered and has accepted the position contingent upon Council's confirmation. If Council approves this appointment Ms. Parker's start date will be January 11, 2016.

Expenditure Required: Salary as set forth in the 2016 Budget

Source of Funds: General Fund - 2016 City Clerk's Budget

Policy Issue

Should City Council confirm the City Manager's appointment of Michelle Parker as the new City Clerk for the City of Westminster?

Alternative

Do not confirm the appointment of Ms. Parker as City Clerk and direct Staff to continue the recruitment process for candidates to fill this position. The alternative is not recommended due to the upcoming retirement of the current City Clerk and the outstanding reputation and qualifications of Ms. Parker.

Background Information

As provided in the Westminster City Charter, the City Clerk is the Clerk to the City Council and attends all meetings of the Council and keeps a permanent record of all proceedings. The Clerk is also the custodian of the City seal and maintains all documents and records pertaining to official City business. The Clerk serves as the chief election official for the City, certifies and codifies all ordinances and resolutions, and carries out a myriad of other legal functions required of a municipality. In addition, the City Clerk is the staff liaison to the Special Permit and License Board, acts as chair of the Election Commission, and is responsible for the citywide Document Management, City's central switchboard, Print Shop, passports, mail coordination and messengers.

In 2015, the City's current City Clerk, Linda Yeager announced that her retirement would take place in early 2016. Ms. Yeager has had an exemplary career with the City of Westminster with a legacy of over ten years of service to Mayors, City Councils, citizens, businesses and co-workers.

The Westminster City Clerk job announcement was placed on the City's website, on many on-line government job posting websites and various City Clerk postings nationally. The selection process involved a thorough review of the qualifications of 59 job applicants, the review of written assignments that were requested of the top seven candidates and a day long interview/assessment process for the six semi-finalists that also included a management profile assessment. The finalist was brought in again for separate interviews with the City Manager, Deputy City Manager, the Assistant City Manager, and the General Services Director. Meetings were held with the City Clerk's Office staff, City Manager's Office staff, and the Division Managers of General Services. The finalist was also introduced to City Council at a dinner before a study session on November 16, 2015. During the selection process Ms. Parker impressed the selection panel with her high degree of professional competence, strong work ethic, innovation through process and technology enhancements, emphasis on providing quality work and adherence to values that parallel those of the City of Westminster as highlighted in SPIRIT. The contacts City staff made with Ms. Parker's references confirmed that she clearly has the qualifications to be Westminster's next City Clerk.

Based on the results of the thorough selection process, the City Manager will appoint, subject to Council confirmation, Michelle Parker as the City's new City Clerk. Section 4.6 of the City Charter provides for the appointment of the City Clerk and the Finance Director by the City Manager with confirmation by the City Council. Therefore, the offer of employment to Ms. Parker is contingent on City Council's approval Monday evening.

The appointment of the new City Clerk, Ms. Michelle Parker, addresses City Council's Strategic Plan Goal of "Financially Sustainable Government Providing Excellence in City Services" by providing a highly qualified City Clerk committed to the mission, values and strategic objectives of the City of Westminster.

Respectfully submitted,

Donald M. Tripp
City Manager

AGENDA

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
SPECIAL MEETING**

MONDAY, DECEMBER 14, 2015

AT 7:00 P.M.

- 1. Roll Call**
- 2. Consideration of Minutes of the Preceding Meetings** (October 26, 2015, and November 23, 2015)
- 3. Public Hearings and New Business**
 - A. Downtown Westminster Project Consultant Contracts
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, OCTOBER 26, 2015, AT 10:13 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Bob Briggs, and Board Members Bruce Baker, Maria De Cambra, Alberto Garcia, Emma Pinter, and Anita Seitz. Also present were Donald M. Tripp, Executive Director, David Frankel, Attorney, and Linda Yeager, Secretary.

APPROVAL OF MINUTES

Vice Chairperson Briggs moved, seconded by Board Member Baker, to approve the minutes of the meeting of August 10, 2015, as written. The motion carried unanimously.

CONTRACT FOR UNDERWRITER CONSULTANT SERVICES

Board Member Garcia moved, seconded by Board Member De Cambra, to authorize the Executive Director to execute a contract, in substantially the same form as attached to the agenda memorandum, with George K. Baum & Company for underwriting services for a one-year period with the option to renew for an additional four years. The motion passed on a 6:1 vote with Councillor Baker dissenting

WEDA, CITY, DOWNTOWN GID INTERGOVERNMENTAL COOPERATION AGREEMENT

Board Member Seitz moved, seconded by Vice Chairperson Briggs, to authorize the Executive Director to execute an Intergovernmental Cooperation Agreement between the Westminster Economic Development Authority, the City of Westminster, and the Westminster Downtown General Improvement District, in substantially the same form as attached to the agenda memorandum, providing for reimbursement to the City by either WEDA and/or the GID of certain costs incurred by the City within the boundaries of the Westminster Center Urban Reinvestment Plan Area. The motion carried by unanimous vote.

ADJOURNMENT

With no further business for the Authority's consideration, Chairperson Atchison adjourned the meeting at 10:19 p.m.

ATTEST:

Chairperson

Secretary

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, NOVEMBER 23, 2015, AT 8:29 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Alberto Garcia, and Board Members Bruce Baker, Shannon Bird, Emma Pinter, and Anita Seitz. Board Member Maria De Cambra was absent. Also present were Donald M. Tripp, Executive Director, David Frankel, Attorney, and Linda Yeager, Secretary.

RESOLUTION NO. 165 ACCEPTING PETITION FOR INCLUSION OF PROPERTY

Vice Chairperson Garcia moved, seconded by Board Member Pinter, to adopt Resolution No. 165 authorizing WEDA's Executive Director to Petition for Inclusion of WEDA-owned property at the Downtown Westminster site into the City of Westminster Downtown General Improvement District. At roll call, the motion passed unanimously.

ADJOURNMENT

With no further business for the Authority's consideration, Chairperson Atchison adjourned the meeting at 8:30 p.m.

ATTEST:

Chairperson

Secretary

WEDA Agenda Item 3 A

Agenda Memorandum

Westminster Economic Development Authority
December 14, 2015



SUBJECT: Downtown Westminster Project Consultant Contracts

Prepared By: Jody Andrews, Deputy Executive Director

Recommended WEDA Board Action

Authorize the Executive Director to enter into one-year agreements with the Laramie Company and John M Mullins and Associates, Inc. to provide consultant services regarding the development of the Downtown Westminster Project, in a form substantially the same as the attached documents.

Summary Statement

- The Downtown Westminster Project is gaining significant momentum as the commercial real estate market continues to revive and WEDA and the City implement the affirmed vision for the project. An increased use of specialized consulting services are needed through 2016 to facilitate the revised block-by-block development approach, particularly with respect to real estate and financial services.
- The Laramie Company provides special project support as a real estate consultant with over 30 years of retail leasing and development experience.
- John M Mullins and Associates specializes in financial structuring of projects, strategy and economic development with years of experience at the state and local level as well as with special districts and commercial development.
- WEDA approval of the contracts is required since the fees exceed staff approval authority.
- Adequate funds have been budgeted and were anticipated for this purpose.

Expenditure Required: \$323,500

Source of Funds: WEDA – Downtown Westminster Project Participation

Policy Issue

Should the WEDA continue to work with highly respected consultants to assist with moving forward on the redevelopment of Westminster's new Downtown?

Alternatives

Do not hire existing experts to assist with and provide advice concerning the redevelopment of the new Downtown, or hire different experts.

Not hiring the existing experts is not recommended, as this is a highly complex and critically important project to Westminster's future. The two consultants recommended by Staff have an excellent track record working not only on the Downtown Westminster project, but on various redevelopment projects in the Denver metropolitan area, as well as throughout Colorado and the western United States.

Hiring different experts is also not recommended at this time, as the two consultants recommended by Staff have been integrally involved in the Downtown Project for many years and provide a high level of continuity in planning, financing, and developer and tenant networking and negotiations. Changing the WEDA consulting team at this time could be detrimental to the current negotiations underway and the timely implementation of the project.

Background Information

The team assembled for the Downtown Westminster Project is highly skilled, with many years of relevant public and private sector experience. Both the Laramie Company (Mary Beth Jenkins) and John M Mullins and Associates were key contributors to the successful Orchard project that involved developer recruiting, land acquisition, detailed financial analysis and projection and development negotiations.

John Mullins' background with general improvement districts, financial pro formas and development strategies will be key throughout 2016 as the Downtown Westminster team works to facilitate the development of Phase 1. Mary Beth Jenkins of the Laramie Company will be key in attracting and negotiating with vision-aligned mixed-use, retail, office and residential developers, preparing the overarching retail strategy for the entire Downtown as well as for individual blocks, negotiating revised leases with existing businesses, and attracting and securing key retail tenants vital to the success of the project.

In 2015 WEDA changed from a master developer approach to a block-by-block development approach for the new Downtown, and this has necessitated certain changes to the scope of work and compensation elements in the Laramie Company and John M Mullins and Associates contracts, the redlined versions of which are attached to this memorandum.

These contracts require WEDA authorization since the amount of each contract exceeds the Executive Director's approval authority, with the Laramie contract not to exceed \$220,000 exclusive of commissions and the John M Mullins not to exceed \$103,500. The work of these expert consultants will be critical to achieving the vision WEDA and the City have for the Downtown Westminster site.

The Downtown Westminster Project supports the City's Strategic Plan goals by facilitating a Strong, Balanced Local Economy and Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

Don Tripp
City Manager

Attachments: The Laramie Company Contract
John M Mullins and Associates, Inc. Contract

AGREEMENT WITH THE LARAMIE COMPANY TO FURNISH CONSULTING SERVICES TO THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY FOR REDEVELOPMENT OF THE WESTMINSTER CENTER URBAN REINVESTMENT PROJECT

THIS AGREEMENT (the "Agreement"), is made and entered into effective the 1st day of January, 2016, by and between the **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY**, hereinafter called "WEDA," and **THE LARAMIE COMPANY, LLC**, a limited liability company organized pursuant to the laws of the State of Colorado hereinafter called the "Consultant," as follows:

WHEREAS, WEDA wishes to wishes to redevelop the Westminster Center Urban Reinvestment Project ("WURP") area, located at approximately 88th and Sheridan, in the City of Westminster, Colorado (the "Property"); and

WHEREAS, WEDA desires to engage the Consultant to render the professional retail consulting services described in this Agreement, and the Consultant is qualified and willing to perform such services; and

WHEREAS, sufficient authority exists in state statute, sufficient funds have been budgeted for these purposes and are available, and other necessary approvals have been obtained.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, WEDA and the Consultant agree as follows:

This Agreement is expressly contingent upon the approval by WEDA of all the terms set forth herein. In the event this Agreement is not approved in its entirety by WEDA by December 31, 2015, neither Party shall be bound to the terms of this Agreement.

I. THE PROJECT

The Consultant agrees to provide real estate consulting services to the City of Westminster ("City") staff, acting on behalf of WEDA, to support the sale and redevelopment of the Property (hereinafter referred to as the "Project[CB1]").

II. THE CONSULTING SERVICES

The Consultant shall provide general real estate consulting services, including without limitation the following tasks:

- Providing input and feedback to WEDA concerning planning for retail and other uses;

- Assisting in identifying, qualifying, selecting and negotiating on behalf of WEDA term sheets for residential, retail and office developers for the site;
- Assisting with negotiation for the pre-development and final development agreements;
- Providing and coordinating competitive market data and retail demographic information and coordinating activities with the retail demographic consultant;
- Assisting in ongoing communications and negotiations with JCPenney, Brunswick Bowling, Olive Garden and Dr. McMurtry;
- Assisting with branding and marketing the site; and
- Identifying additional tenants to determine interest level and deal parameters.

The Consultant agrees that it will furnish all of the technical, administrative, professional, and other labor; all supplies and materials, equipment, printing, vehicles, local travel, office space and facilities, testing and analyses, calculations, and any other facilities or resources necessary to provide the professional and technical services necessary to complete the Project.

III. THE CONSULTANT'S REAL ESTATE BROKERAGE SERVICES

WEDA and Consultant agree to enter into an Exclusive Listing Agreement for the Sale of all or any portion of the Property, with Consultant acting as Seller's Exclusive Listing Agent, under mutually acceptable terms and conditions to be outlined in an Exclusive Listing Agreement to be drafted by WEDA's attorney and executed by WEDA and Consultant on or before January 31, 2016 (the "Listing Agreement"). The Listing Agreement shall provide that WEDA will pay the Consultant, as real estate broker, a real estate commission ("Commission") in the amount of the greater of (i) Two and One-Half Percent (2.5%) of the Net Purchase Price or (ii) \$25,000 for a Sale in which there is no buyer's cooperating broker. WEDA will pay the Consultant a Commission in the amount of the greater of (i) Two and One-Half Percent (2.5%) of the Net Purchase Price or (ii) \$25,000, increased by the amount of any commission to be paid by the Consultant, as real estate broker, to a buyer's cooperating broker as may be agreed by WEDA in writing prior to execution of the Purchase and Sale Agreement for the Sale, but in no event increased more than Three Percent (3%) of the Net Purchase Price. The term "Net Purchase Price" is defined as the Sale purchase price paid by a buyer for the portion of the Property being purchased, net of any price adjustments agreed to by WEDA and the buyer.

IV. ADDITIONAL SERVICES

When authorized in writing by WEDA, the Consultant agrees to furnish or obtain from others, additional professional services related to the Project, the Property or its redevelopment, subject to separate written agreements between WEDA and the Consultant as to additional compensation for additional services.

V. CONSULTANT'S COMPENSATION

Monthly Retainer. WEDA will pay the Consultant a lump sum monthly fee in the amount of Twenty Thousand Dollars (\$20,000) for the month of January 2016 and thereafter a monthly fee of Seventeen Thousand Five Hundred Dollars (\$17,500) per month over the remaining term of this

Agreement. The Consultant shall submit invoices to WEDA for its monthly fee, such invoices to be in the form and detail reasonably required by WEDA. Reimbursable expenses (as defined below) shall be itemized on such invoices. WEDA agrees to pay the Consultant within thirty (30) days of receipt of properly documented invoices.

Reimbursable Expenses. WEDA will reimburse Consultant a maximum of Seven Thousand Five Hundred Dollars (\$7,500) in reasonable travel costs and other approved consulting expenses during the term of this Agreement. The Consultant's total fees under this Agreement, including reimbursable expenses, shall not exceed Two Hundred Twenty Thousand Dollars (\$220,000.00), exclusive of any real estate brokerage commissions payable to Consultant as a real estate broker under the Listing Agreement. Said fees and the Commissions shall constitute full and complete payment for services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement in Article V.

VI. TERM OF THE AGREEMENT

The term of this Agreement shall begin on January 1, 2016, and shall terminate on December 31, 2016, unless earlier terminated pursuant to the provisions set out below.

VII. TERMINATION

This Agreement shall terminate prior to December 31, 2016 at such time as the Project is completed and the requirements of this Agreement are satisfied, or upon either the Consultant or WEDA providing ninety (90) days advance written notice, whichever occurs first. In the event the Agreement is terminated by WEDA issuance of said written notice of intent to terminate, WEDA shall pay the Consultant for all services previously authorized and completed on the Project prior to the date of termination plus any services WEDA deems necessary during the notice period. Said compensation shall be paid upon the Consultant's delivering or otherwise making available to WEDA all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing work on the Project, whether completed or in progress.

In addition, WEDA shall have the right to immediately terminate this Agreement upon notice to the Consultant if any of the following events shall occur: cancellation or expiration of Consultant's real estate brokerage license; termination of the entity existence of the Consultant; dissolution of the Consultant entity, except by merger with or consolidation with another entity which is wholly owned by Consultant or the principals of the Consultant; the adjudication of the bankruptcy of Consultant under any Chapter of the Federal Bankruptcy Code; the reorganization or reconstruction or the making of an assignment for the benefit of creditors by Consultant; or the Consultant's breach of the requirement to provide insurance certificates.

VIII. INSURANCE

During the course of the Project, the Consultant shall maintain Workers ' Compensation Insurance in accordance with the Workers' Compensation laws of the State of Colorado, Professional Liability Insurance in the minimum amount of \$1,000,000, but in any event sufficient to cover the Consultant 's liability under its Indemnity obligations set out in this Agreement. Automobile Liability of \$500,000 per person/\$1,000,000 per occurrence, and Commercial General Liability of \$500,000 per person/\$1,000,000 per occurrence. The Consultant's Automobile and Commercial General Liability policies shall be endorsed to name WEDA as an additional insured and to provide that such insurance is primary with respect to claims made by WEDA. The Consultant's Automobile and Commercial General Liability policies shall be occurrence-based policies, and shall specifically provide that all coverage limits are exclusive of costs of defense, including attorney fees.

The Consultant shall provide certificates of insurance to WEDA indicating compliance with this paragraph. It shall be an affirmative duty of the Consultant to notify WEDA in writing within two days of the cancellation of or substantive change to any of the insurance policies set out herein, and failure to do so shall constitute a breach of this Agreement.

INSURANCE CERTIFICATES REQUIRED BY THIS AGREEMENT SHALL BE SENT TO CITY MANAGERS OFFICE, ATTENTION: JODY ANDREWS.

IX. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the performance of this Agreement, the Consultant shall not discriminate against any prospective purchaser, Buyer, subcontractor, employee or applicant for employment because of race, religion, color, sex, national origin, or disability. Such actions 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 Consultant represents that it will require a similar affirmation of nondiscrimination in any contract it enters into with a subcontractor as part of the performance of this Agreement.

X. PROHIBITED INTERESTS; CONFIDENTIALITY

1. Consultant agrees not to provide consulting or brokerage services related to the Project to any third party other than to WEDA pursuant to the terms of this Agreement. Neither Consultant nor any of its employees or agents shall at any time be in the employ of WEDA or the City or be considered the employee of WEDA or of the City. Nothing contained herein or in the relationship of WEDA and Consultant shall be deemed to constitute a partnership, joint venture or any other similar relationship between WEDA and Consultant or the City and Consultant.

The Consultant agrees that it presently has no interest in the Project and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder during the term of this Agreement and any Holdover Period. The Consultant further agrees that in the performance of the Agreement, no person having any such interests shall be employed. Consultant covenants and warrants that Consultant shall not act as a principal in this transaction; and, other than with respect to the relationship which results due to this Agreement, neither Consultant nor anyone in whom Consultant has a financial interest nor any Affiliate of Consultant including, without limitation, the Consultant, shall benefit from the Project unless disclosed in writing to WEDA in advance

and approved by WEDA in writing, which approval may be withheld in WEDA's sole and absolute discretion.

2. No official or employee of WEDA shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

3. Consultant shall keep all information which comes into Consultant's possession with respect to the sale of the Property and Project and with respect to WEDA and any other data given to Consultant by WEDA confidential; and Consultant shall not disclose such information to any third parties without WEDA's prior written approval. However, Consultant's obligation to keep information confidential shall not apply to information which (i) is already available to the general public; or (ii) becomes available to the general public through no fault of Consultant or any of its or their respective officers, employees, contractors or agents; or (iii) is required by law to be disclosed. Colorado law requires a broker to disclose to any prospective buyer all adverse material facts actually known by such broker including but not limited to adverse material facts pertaining to the title to the Property and the physical condition of the Property, any material defects in the Property, and any environmental hazards affecting the Property which are required by law to be disclosed. These types of disclosures may include such matters as structural defects, soil conditions, violations of health, zoning or building laws, and nonconforming uses and zoning variances. WEDA agrees that, following any execution of a mutually acceptable purchase and sale agreement, any Buyer may have the Property inspected, and WEDA authorizes Broker to disclose to the Buyer, without making any representation or warranty, any facts actually known by Broker about the condition of the Property.

XI. GENERAL PROVISIONS

A. Independent Contractor. In the performance of this Agreement, the Consultant shall act as an independent contractor and not as agent of WEDA except to the extent the Consultant is specifically authorized to act as an agent of WEDA.

B. Books and Records. The Consultant's books and records with respect to the Project and reimbursable costs shall be kept in accordance with recognized accounting principles and practices, consistently applied, and will be made available for WEDA's inspection at all reasonable times at the places where the same may be kept. The Consultant shall not be required to retain such books and records for more than three (3) years after completion of the Project.

C. Ownership and Format of Drawings. All plans, drawings, specifications and the like relating to the Project shall be the joint property of WEDA and the Consultant. Upon completion of the Project, or at such other time as WEDA may require, the Consultant shall deliver to WEDA a complete corrected set of drawings in hard copy and in an electronic/digital format acceptable to WEDA and such additional copies thereof as WEDA may request, corrected as of the date of completion of the Project.

D. Responsibility; Liability.

1. Professional Liability. The Consultant shall exercise in its performance of the Project the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services. The Consultant shall be liable to WEDA for any loss, damages or costs incurred by WEDA for the repair, replacement or correction of any part of the Project that is deficient or defective as a result of any failure of the Consultant to comply with this standard.

2. Indemnification by Consultant. To the fullest extent permitted by law and except for all professional liability claims, damages, losses and expenses, the Consultant shall indemnify, defend, and hold harmless WEDA and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from performance of Consultant's work on the Project, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting therefrom, but only to the extent caused by the negligent act or omission of, or breach of contract by, the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

To the fullest extent permitted by law, the Consultant shall indemnify and hold harmless WEDA and its agents and employees from and against all professional liability claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Project provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting there from, but only to the extent caused by the negligent act or omission of, or breach of contract by, the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section entitled "Responsibility; Liability". WEDA may, if it so desires, withhold the payments due the Consultant so long as shall be reasonably necessary to indemnify WEDA on account of such injuries.

In any and all claims against WEDA or any of its agents or employees by any employee of the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subcontractor under the workers' compensation acts, disability benefit acts or other employee benefit acts.

E. Notice/Communications. Any notice which a party is required or may desire to give the other party shall be in writing and may be delivered (a) personally (b) by United States registered or certified mail, postage prepaid, return receipt requested or (c) by a reputable national overnight courier service regularly providing evidence of delivery (with charges paid by the party sending the notice). Any such notice shall be addressed to the address set out in each signature block below, subject to the right of a party to designate a different address for itself by notice similarly given. Notice given in the manner specified above shall be deemed to have been given as follows: (i) if given in the manner specified in clause (b) above, on the date which is three (3) business days after the date mailed (as evidenced by the receipt); (ii) if given in the manner specified in clause (c) above, on the date which is one (1) business day after the date sent (as evidenced by the receipt); and (iii) in all other instances, upon receipt of the same by the party to whom the same is to be given (whether accepted or refused).

F. Assignment. The Consultant shall not assign this Agreement (which is deemed to be a personal services agreement) in whole or in part, including the Consultant's right to receive compensation hereunder, without the prior written consent of WEDA; provided, however, that such consent shall not be unreasonably withheld with respect to assignments to the Consultant's affiliated or subsidiary companies, and provided, further, that any such assignment shall not relieve the Consultant of any of its obligations

under this Agreement. This restriction on assignment includes, without limitation, assignment of the Consultant's right to payment to its surety or lender.

G. Applicable Laws and Venue. This Agreement shall be governed by the laws of the State of Colorado. This Agreement shall be deemed entered into in both Adams County and Jefferson County, State of Colorado, as the City is located in both counties. At WEDA's option, the location for settlement of any and all claims, controversies and disputes arising out of or related to this Agreement or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in either county.

H. Remedies. The Consultant agrees that the economic loss rule as set forth in *Town of Alma v. Azco Construction, Inc.*, 10 P.3d 1256 (Colo. 2000), shall not serve as a limitation on WEDA's right to pursue tort remedies in addition to other remedies it may have against the Consultant. Such rights and remedies shall survive the Project or any termination of this Agreement.

I. Entire Agreement. This Agreement and its attachments shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Project. To the extent there is any conflict between the terms of this Agreement and the terms of an attachment hereto, this Agreement shall control.

J. Subcontracting. The Consultant may not employ subcontractors to perform work on the Project without WEDA's express prior written approval. The Consultant is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subcontractors.

K. Enforcement of Agreement. In the event it becomes necessary for either party to bring an action against the other to enforce any provision of this Agreement, in addition to any other relief that may be granted, the prevailing party in such action shall be entitled to an award of its reasonable attorney fees as determined by the Court.

L. Authorization. The person or persons signing and executing this Agreement on behalf of each party do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Agreement and to validly and legally bind such party to all the terms, performances and provisions herein set forth.

M. Immigration Compliance. To the extent this Agreement constitutes a public contract for services pursuant to C.R.S. § 8-17.5-101 et seq., the following provisions shall apply: The Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. In addition, the Consultant shall not enter into a contract with any entity that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. If the Consultant obtains actual knowledge that an entity performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant shall notify the entity and WEDA within three (3) days that the Consultant has actual knowledge that the entity is employing or contracting with an illegal alien. Furthermore, the Consultant shall terminate such contract with the entity if, within three (3) days of receiving the notice required pursuant to this paragraph, the entity does not stop employing or contracting with the illegal alien. Except that the Consultant shall not terminate the contract with the entity if during such three (3) days the entity provides information to establish that the entity has not knowingly employed or contracted with an illegal alien.

The Consultant certifies that, prior to executing this Agreement, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-verify program administered by the United States Department of

Homeland Security and the Social Security Administration (the "E-verify Program"), or the employment verification program administered by the Colorado Department of Labor and Employment (the "Colorado Verification Program"). The Consultant shall not use either the E-verify Program or the Colorado Verification Program procedures to undertake preemployment screening of job applicants while performing this Agreement.

The Consultant shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. § 8-17.5-102(5).

Counterparts. This Agreement may be executed in counterpart, and when so executed, such copies taken together, with one executed by WEDA and one executed by Broker on behalf of Consultant, shall be deemed to be a full and complete contract between the parties.

Signage. No signs shall be placed on the Property without the prior written consent of WEDA, and neither Broker nor the Consultant shall advertise or otherwise make any public statements regarding the Sale of the Property or any portion thereof except as expressly authorized in this Agreement. Upon the consummation of a Sale of the Property or any portion thereof, Broker or the Consultant shall have the right to advertise such Sale, provided that such advertisement shall not include any details of the terms of the Sale other than Broker's participation in the transaction, and the identity of the Buyer and WEDA.

Preparation of Agreement. This Agreement was prepared by the Office of the City Attorney on behalf of WEDA.

**WESTMINSTER ECONOMIC
DEVELOPMENT AUTHORITY**

THE LARAMIE COMPANY, LLC

By: _____
Donald M. Tripp, Executive Director

By: _____
Mary Beth Jenkins, President

Address: 4800 West 92nd Avenue
Westminster, CO 80031

Consultant signs to evidence her agreement to be personally bound by the provisions of Article X, Prohibited Interests/Confidentiality.

Attest:

Secretary

Consultant's Signature

APPROVED AS TO LEGAL FORM

Address: 730 Seventeenth St., Suite 840
Denver, CO 80202

By: _____
Authority Attorney

AGREEMENT WITH JOHN M. MULLINS AND ASSOCIATES, INC., TO FURNISH CONSULTING SERVICES TO THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY FOR REDEVELOPMENT OF DOWNTOWN WESTMINSTER

THIS AGREEMENT, made and entered into effective the 1st day of January, 2016, between the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, hereinafter called "WEDA," and JOHN M. MULLINS & ASSOCIATES, INC., a corporation organized pursuant to the laws of the State of Colorado hereinafter called the "Consultant," is as follows:

WHEREAS, WEDA wishes to redevelop the Downtown Westminster site located at approximately 88th and Sheridan in the City of Westminster (the "Development Site"); and

WHEREAS, WEDA desires to engage the Consultant to render the professional consulting services described in this Agreement, and the Consultant is qualified and willing to perform such services; and

WHEREAS, sufficient authority exists in state statute, sufficient funds have been budgeted for these purposes and are available, and other necessary approvals have been obtained.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, WEDA and the Consultant agree as follows:

This Agreement is expressly contingent upon the approval by WEDA of all the terms set forth herein. In the event this Agreement is not approved in its entirety by WEDA, neither party shall be bound to the terms of this Agreement.

I. THE PROJECT

The project consists of providing retail, office and residential real estate consulting services, initiating developer contacts, financial strategies, district development strategies, consultation on operation and maintenance of the ultimate project and other similar advisory services to the City of Westminster staff acting on behalf of WEDA to support redevelopment of the Development Site (hereinafter referred to as the "Project").

II. CONSULTANT'S SERVICES AND RESPONSIBILITIES

The Consultant shall provide general real estate consulting services, including the following tasks:

- Initiating developer contacts as well as contacts with potential end users;
- Providing financial strategy services, strategy concerning districts and operation and maintenance strategies;
- Establishing a general finance plan for the overall site (considering operation and maintenance);
- Assisting with negotiation of pre-development and final development agreements;
- Providing competitive market data and retail demographic information; and
- Assisting in drafting terms for specific development on site.

The Consultant agrees that it will furnish all of the technical, administrative, professional, and other labor; all supplies and materials, equipment, printing, vehicles, local travel, office space and facilities, testing and analyses, calculations, and any other facilities or resources necessary to provide the professional and technical services necessary to complete the Project.

III. ADDITIONAL SERVICES

When authorized in writing by WEDA, the Consultant agrees to furnish or obtain from others, additional professional services due to changes in the Project or its design, subject to separate written agreement between WEDA and Consultant as to additional compensation for additional services.

IV. CONSULTANT'S FEE

Monthly Retainer. As compensation for the basic services described in this Agreement, the Consultant shall be paid a lump sum monthly fee of eight thousand dollars (\$8,000) over the twelve (12) month term of the Project. The Consultant shall submit invoices to WEDA for its monthly fee, such invoices to be in the form and detail reasonably required by WEDA. Reimbursable expenses (as defined below) shall be itemized on such invoices. WEDA agrees to pay the Consultant within thirty (30) days of receipt of properly documented invoices.

Reimbursable Expenses: WEDA shall cover Consultant's reimbursable expenses up to a maximum of seven thousand five hundred dollars (\$7,500) for reasonable travel expenditures and other approved project-related expenses.

Consultant's total fee under this Agreement, including reimbursable expenses, shall not exceed one hundred three thousand five hundred dollars (\$103,500.00). Said fees shall constitute full and complete payment for the Project and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement.

V. COMMENCEMENT & COMPLETION OF PROJECT

The Project shall begin on January 1, 2016, and shall terminate on December 31, 2016.

VI. TERMINATION

This Agreement terminates on December 31, 2016, unless agreed otherwise by the parties. This Agreement shall earlier terminate upon either the consultant or WEDA providing sixty (60) days advance written notice, whichever occurs first. In the event the Agreement is terminated by WEDA issuance of said written notice of intent to terminate, WEDA shall pay Consultant for all services previously authorized and completed on the Project prior to the date of termination plus any services WEDA deems necessary during the notice period. Said compensation shall be paid upon the Consultant's delivering or otherwise making available to WEDA all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing work on the Project, whether completed or in progress.

VII. INSURANCE

During the course of the Project, the Consultant shall maintain Workers' Compensation Insurance in accordance with the Workers' Compensation laws of the State of Colorado, Professional Liability Insurance in the minimum amount of \$1,000,000, but in any event sufficient to cover Consultant's liability under paragraph X.D. below, Automobile Liability of \$500,000 per person/\$1,000,000 per occurrence, and Commercial General Liability of \$500,000 per person/ \$1,000,000 per occurrence. The Consultant's Automobile and Commercial General Liability policies shall be endorsed to name WEDA as an additional insured and to provide that such insurance is primary with respect to claims made by WEDA. Consultant's Automobile and Commercial General Liability policies shall be occurrence-based policies, and shall specifically provide that all coverage limits are exclusive of costs of defense, including attorney fees.

The Consultant shall provide certificates of insurance to WEDA indicating compliance with this paragraph. It shall be an affirmative duty of the Consultant to notify WEDA in writing within two days of the cancellation of or substantive change to any of the insurance policies set out herein, and failure to do so shall constitute a breach of this Agreement.

VIII. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the performance of this Agreement, the Consultant shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, sex, national origin, or disability. Such actions 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. Consultant represents that it will require a similar affirmation of nondiscrimination in any contract it enters into with a subcontractor as part of the performance of this Agreement.

IX. PROHIBITED INTEREST

A. The Consultant agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further agrees that in the performance of the Agreement, no person having any such interests shall be employed.

B. No official or employee of WEDA shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

X. GENERAL PROVISIONS

A. Independent Contractor. In the performance of the Project, the Consultant shall act as an independent contractor and not as agent of WEDA except to the extent the Consultant is specifically authorized to act as agent of WEDA.

B. Books and Records. The Consultant's books and records with respect to the Project and reimbursable costs shall be kept in accordance with recognized accounting principles and practices, consistently applied, and will be made available for WEDA's inspection at all reasonable times at the

places where the same may be kept. The Consultant shall not be required to retain such books and records for more than three (3) years after completion of the Project.

C. Ownership and Format of Drawings. All plans, drawings, specifications and the like relating to the Project shall be the joint property of WEDA and Consultant. Upon completion of the Project, or at such other time as WEDA may require, the Consultant shall deliver to WEDA a complete corrected set of drawings in hard copy and in an electronic/digital format acceptable to WEDA and such additional copies thereof as WEDA may request, corrected as of the date of completion of the Project.

D. Responsibility; Liability.

1. Professional Liability. The Consultant shall exercise in its performance of the Project the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services. The Consultant shall be liable to WEDA for any loss, damages or costs incurred by WEDA for the repair, replacement or correction of any part of the Project that is deficient or defective as a result of any failure of the Consultant to comply with this standard.

2. Indemnification. To the fullest extent permitted by law and except for all professional liability claims, damages, losses and expenses, the Consultant shall indemnify, defend, and hold harmless WEDA and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Project, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting therefrom, but only to the extent caused by the negligent act or omission of, or breach of contract by the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

3. To the fullest extent permitted by law, the Consultant shall indemnify and hold harmless WEDA and its agents and employees from and against all professional liability claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Project provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting there from, but only to the extent caused by the negligent act or omission of, or breach of contract by, the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph D.2. WEDA may, if it so desires, withhold the payments due the Consultant so long as shall be reasonably necessary to indemnify WEDA on account of such injuries.

In any and all claims against WEDA or any of its agents or employees by any employee of the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this paragraph D.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the

Consultant or any subcontractor under the workers' compensation acts, disability benefit acts or other employee benefit acts.

E. Communications. All communications relating to the day-to-day activities for the Project shall be exchanged between the following Project representatives of WEDA and the Consultant.

Project Representative for the City of Westminster, acting on behalf of WEDA

Name: Jody Andrews
Address: 4800 W. 92nd Avenue, Westminster,
CO 80031
Phone: 303-658-2003
E-mail: jandrews@cityofwestminster.us

Project Representative for Consultant

Name: John M. Mullins
Address: 1988 E. Ross Lane,
Highlands Ranch, CO 80126
Phone: 303-683-9382
E-mail: jmmworld@aol.com

All notices and communications required or permitted hereunder shall be in writing and delivered personally (which may include email to the address designated above) to the respective Project representatives of WEDA and the Consultant or shall be sent via registered mail, postage prepaid, return receipt requested to the parties at their addresses shown herein. When sent via registered mail, notices shall be effective three (3) days after mailing.

F. Assignment. The Consultant shall not assign this Agreement in whole or in part, including the Consultant's right to receive compensation hereunder, without the prior written consent of WEDA; provided, however, that such consent shall not be unreasonably withheld with respect to assignments to the Consultant's affiliated or subsidiary companies, and provided, further, that any such assignment shall not relieve the Consultant of any of its obligations under this Agreement. This restriction on assignment includes, without limitation, assignment of the Consultant's right to payment to its surety or lender.

G. Applicable Laws and Venue. This Agreement shall be governed by the laws of the State of Colorado. This Agreement shall be deemed entered into in both Adams County and Jefferson County, State of Colorado, as the City is located in both counties. At the City's option, the location for settlement of any and all claims, controversies and disputes arising out of or related to this Agreement or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in either county.

H. Remedies. Consultant agrees that the economic loss rule as set forth in *Town of Alma v. Azco Construction, Inc.*, 10 P.3d 1256 (Colo. 2000), shall not serve as a limitation on the City's right to pursue tort remedies in addition to other remedies it may have against Consultant. Such rights and remedies shall survive the Project or any termination of this Agreement.

I. Entire Agreement. This Agreement and its attachments shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Project, including without limitation that certain Agreement dated effective January 1, 2014, as amended. To the extent there is any conflict between the terms of this Agreement and the terms

of an attachment hereto, this Agreement shall control.

J. Subcontracting. Consultant may not employ subcontractors to perform work on the Project without WEDA's express prior written approval. Consultant is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subcontractors.

K. Enforcement of Agreement. In the event it becomes necessary for either party to bring an action against the other to enforce any provision of this Agreement, in addition to any other relief that may be granted, the prevailing party in such action shall be entitled to an award of its reasonable attorney fees as determined by the Court.

L. Authorization. The person or persons signing and executing this Agreement on behalf of each Party, do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Agreement and to validly and legally bind such Party to all the terms, performances and provisions herein set forth.

M. Immigration Compliance. To the extent this Agreement constitutes a public contract for services pursuant to C.R.S. § 8-17.5-101 et seq., the following provisions shall apply: Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. In addition, Consultant shall not enter into a contract with any entity that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. If Consultant obtains actual knowledge that an entity performing work under this Agreement knowingly employs or contracts with an illegal alien, Consultant shall notify the entity and WEDA within three (3) days that Consultant has actual knowledge that the entity is employing or contracting with an illegal alien. Furthermore, Consultant shall terminate such contract with the entity if, within three (3) days of receiving the notice required pursuant to this paragraph, the entity does not stop employing or contracting with the illegal alien. Except that Consultant shall not terminate the contract with the entity if during such three (3) days the entity provides information to establish that the entity has not knowingly employed or contracted with an illegal alien.

Consultant certifies that, prior to executing this Agreement, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-verify program administered by the United States Department of Homeland Security and the Social Security Administration (the "E-verify Program"), or the employment verification program administered by the Colorado Department of Labor and Employment (the "Colorado Verification Program"). Consultant shall not use either the E-verify Program or the Colorado Verification Program procedures to undertake preemployment screening of job applicants while performing this Agreement.

Consultant shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. § 8-17.5-102(5).

INSURANCE CERTIFICATES REQUIRED BY THIS AGREEMENT SHALL BE SENT TO CITY MANAGERS OFFICE, ATTENTION: JODY ANDREWS.

REMAINDER OF PAGE INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first appearing above.

**WESTMINSTER ECONOMIC
DEVELOPMENT AUTHORITY**

JOHN M. MULLINS & ASSOCIATES, INC.

By: _____
Donald M. Tripp, Executive Director

By: _____
John M. Mullins, President

Attest:

Attest:

Secretary

Secretary

APPROVED AS TO LEGAL FORM

Corporate Seal, if applicable

By: _____
Authority Attorney

I certify that either an appropriation has been made by the WEDA Board or that sufficient funds have otherwise been made available for the payment of this Agreement.

Executive Director

Account No.: _____

AGENDA

WESTMINSTER HOUSING AUTHORITY SPECIAL MEETING

MONDAY, DECEMBER 14, 2015

AT 7:00 P.M.

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (July 27, 2015)
- 3. Public Hearings and New Business**
 - A. Resolution No. 62 Approving the 2016 Budget
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY
MONDAY, JULY 27, 2015, AT 9:35 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Bob Briggs, and Board Members Bruce Baker, Maria De Cambra, Alberto Garcia, Emma Pinter, and Anita Seitz. Also present were Donald M. Tripp, Executive Director, Hilary Graham, Deputy Attorney, and Linda Yeager, Administrative Secretary.

MINUTES OF PRECEDING MEETING

Vice Chairperson Briggs moved, seconded by De Cambra, to approve the minutes of the meeting of January 26, 2015, as written and distributed. The motion carried unanimously.

RESOLUTION NO. 61 AUTHORIZING SUPPLEMENTAL APPROPRIATION

Board Member Pinter moved, seconded by Garcia, to adopt Resolution No. 61 approving a supplemental appropriation to the 2015 Westminster Housing Authority Budget. At roll call, the motion passed on a 6:1 vote with Board Member Baker dissenting.

ADJOURNMENT

There being no further business to conduct, the meeting adjourned at 9:36 p.m.

Chairperson

ATTEST:

Administrative Secretary

WHA Agenda Item 3 A

Agenda Memorandum

Westminster Housing Authority Meeting
December 14, 2015



SUBJECT: Resolution No. 62 re 2016 Westminster Housing Authority Budget

Prepared By: Ryan Johnson, Senior Projects Coordinator

Recommended Board Action

Adopt Resolution No. 62 approving the 2016 Westminster Housing Authority Budget.

Summary Statement

- The proposed 2016 Westminster Housing Authority (WHA) operating budget of \$19,400 provides funding to cover operational and maintenance costs relative to property owned at 3915 W. 73rd Avenue that is the Rodeo Market Community Art Center.
- There are no additional capital project appropriations anticipated in 2016. Continuing appropriations for 2016 are anticipated to be \$349,229.
- WHA generates no substantial rental revenues from any of the properties as the buildings are made available to the South Westminster Arts Group (SWAG) at \$10 per year to promote and support arts and culture as a component of the South Westminster revitalization efforts.
- WHA's fund balance at the end of 2015 from previous years' excess revenues is anticipated to be \$116,412, which is available to use towards operations and maintenance.
- The proposed operating budget expenses for WHA include \$19,400 in contractual services to cover maintenance, insurance, support to SWAG, and repairs and other miscellaneous expenses.
- The proposed budget also includes a transfer of funds to Community Development Block Grant (CDBG) in order to pay required, quarterly interest payments on the Section 108 Loan.

Expenditure Required: \$19,400

Source of Funds: Westminster Housing Authority estimated rent revenues and prior year excess revenues

Policy Issue

Does the Board of WHA wish to support the activities of Westminster Housing Authority by adopting the proposed 2016 budget?

Alternative

- Reduce the proposed 2016 Westminster Housing Authority Budget. This alternative is not recommended as Staff believes the proposed funding level is essential while continuing to support the endeavors of SWAG by making the space available for its use.
- Do not adopt the proposed 2016 Westminster Housing Authority Budget. This is not recommended as some level of funding is needed to pay for insurance, general operations and maintenance to protect the integrity of the buildings' systems and grounds regardless of occupancy of the buildings. This budget also includes adequate funds to make regular quarterly payments on the Section 108 Loan. An approved budget is necessary to provide funding for these purposes.

Background Information

The Westminster Housing Authority was initially created as a means of constructing and operating the Westminster Commons Senior Apartments at 76th Avenue at 3180 W. 76th Avenue. The senior apartments were sold by the WHA in 2012 to Volunteers of America. However, the WHA continues to provide support towards community development and affordable housing initiatives. The WHA owns property at 3915 W. 73rd Avenue. The property at 3915 W. 73rd Avenue is leased to the South Westminster Arts Group that provides arts and cultural programs for the South Westminster community.

Staff is proposing a total 2016 budget of \$19,400. Of this amount, \$8,400 is requested to be transferred to CDBG to make regular, quarterly interest payments on the Section 108 Loan. The additional \$11,000 is requested to cover contractual services of which \$3,000 is to cover property insurance, general maintenance and repairs to all the buildings, and other incidental costs. The remaining \$8,000 for contractual services is proposed to provide reimbursement to SWAG for utility costs associated with their lease and operation of the Rodeo Market Community Arts Center. As part of its South Westminster Strategic Revitalization Plan, the City initiated an effort to promote arts as a means of attracting new residents and businesses, which resulted in the creation of the SWAG. In an effort to further this initiative, the WHA has regularly agreed to lease the premises to SWAG at a nominal fee (\$10.00/year) and cover the cost for utilities, until such time as SWAG can generate sufficient operating revenues to cover such costs and higher rent. Given SWAG has yet to generate sufficient revenue, WHA in return is not expected to see any revenue generation from SWAG's use of these properties in 2016.

It is estimated that WHA will have an estimated 2015 ending cash balance of \$116,412 that is available to fund the 2016 budget. The 2016 budget would leave WHA with a cash balance of \$97,022, which excludes \$508,977 in cash proceeds remaining from the sale of the Westminster Commons senior apartments, which have not as yet been appropriated. It is proposed that the funds from the sale would be appropriated at such time as they are needed to support an affordable housing project.

Approval of the 2016 WHA budget meets the Westminster City Council's goal of supporting "Vibrant, Inclusive and Engaged Community," whereby continued WHA investment in its properties and the South Westminster community work towards promoting other private investment into the neighborhood.

Respectfully submitted,

Donald M. Tripp
Executive Director

Attachments: Resolution
2016 WHA Proposed Budget

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **62**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2015

**A RESOLUTION ADOPTING THE 2016 BUDGET FOR THE
WESTMINSTER HOUSING AUTHORITY**

WHEREAS, the Westminster Housing Authority is a political subdivision of the State of Colorado, duly organized, existing, and acting pursuant to Section 29-4-201 *et seq.* C.R.S. (the "Act"); and

WHEREAS, the Authority was created to carry out the purposes of a public housing authority pursuant to the Act; and

WHEREAS, the Westminster Housing Authority Board has not yet adopted a formal operating budget for fiscal year 2016 for the Authority; and

WHEREAS, the Westminster Housing Authority anticipates expenditures for various purposes relating to the goals of the Authority.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Westminster Housing Authority that the attached 2016 Westminster Housing Authority Budget is hereby approved and the amounts stated therein are hereby appropriated for the fiscal year 2016.

PASSED AND ADOPTED this 14th day of December, 2015.

ATTEST:

Chairperson

Authority Secretary

WESTMINSTER HOUSING AUTHORITY
2016 Proposed Budget

	<u>2014 Actual</u>	<u>2015 Budget</u>	<u>2015 Estimated</u>	<u>2016 Proposed</u>
Revenues				
Rental Income	\$ 20	\$ 10	\$ 10	\$ 10
Interest	6,891	-	9,620	-
Other	9,278	-	14,576	-
<i>Total Operating Revenues</i>	<u>16,189</u>	<u>10</u>	<u>24,206</u>	<u>10</u>
Expenditures				
Utilities	3,242	1,500	444	-
Contractual	24,244	13,500	10,672	11,000
Building & Grounds Materials	-	-	-	-
Commodities	-	-	-	-
Contingency	-	-	-	-
Depreciation	57,180	-	-	-
<i>Total Operating Activities</i>	<u>84,666</u>	<u>15,000</u>	<u>11,116</u>	<u>11,000</u>
Net Operating Surplus (Deficit)	<u>(68,477)</u>	<u>(14,990)</u>	<u>13,090</u>	<u>(10,990)</u>
Other Financing Sources (Uses)				
Transfers in (out)	-	-	-	(8,400)
Sale of Assets	94,666	-	-	-
Capital Contributions	265,692	-	-	-
Capital Projects	-	(450,613)	(101,384)	(349,229)
<i>Total other financing sources (uses)</i>	<u>360,358</u>	<u>(450,613)</u>	<u>(101,384)</u>	<u>(357,629)</u>
Net change in cash balance	291,881	(465,603)	(88,294)	(368,619)
Cash balance beginning	623,761	87,798	1,062,912	116,412
Accrual and Balance Sheet Adjustments	<u>147,270</u>	<u>450,613</u>	<u>(858,206) *</u>	<u>349,229</u>
Cash balance ending	<u>\$ 1,062,912</u>	<u>\$ 72,808</u>	<u>\$ 116,412</u>	<u>\$ 97,022</u>

* The remaining portion of funds received from the sale of the Commons Senior Housing project have not yet been appropriated. A portion of these funds was used to payoff the Brownsfields loan and transferred to the Transit Oriented Development project. Staff is in the process of determining the best use of the remaining funds. An adjustment was included for the ending 2015 estimated balance to accurately reflect the amount of cash available at year end for future years.