City Council Agenda

July 16, 2019 at 6:30 PM

1001 11th Avenue, City Center South, Greeley, CO 80631

Mayor
John Gates

Councilmembers

Jonathan Smail
Ward I

Brett Payton
Ward II

Michael Fitzsimmons
Ward III

Dale Hall
Ward IV

Stacy Suniga
At-Large

Robb Casseday
At-Large

A City Achieving Community Excellence
Greeley promotes a healthy, diverse economy and high quality of life responsive to all its residents and neighborhoods, thoughtfully managing its human and natural resources in a manner that creates and sustains a safe, unique, vibrant and rewarding community in which to live, work, and play.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Recognitions and Proclamations
5. Citizen Input
6. Approval of the Agenda
7. Reports from Mayor and Councilmembers
8. Petitions from Mayor and Councilmembers

Consent Agenda

The Consent Agenda is a meeting management tool to allow the City Council to handle several routine items with one action.

Council or staff may request an item be "pulled" off the Consent Agenda and considered separately under the next agenda item in the order they were listed.

9. Approval of the City Council Proceedings of July 2, 2019
10. Acceptance of the Report of the July 9, 2019, City Council Worksession
11. Consideration of a resolution of the City of Greeley Council authorizing the City to enter into an Intergovernmental Agreement for congestion mitigation and air quality grant funding with the Colorado Department of Transportation
12. Introduction and first reading of an ordinance repealing Title 7, Animals, of the Greeley Municipal Code and replacing it with a new Title 7, Animals

End of Consent Agenda

13. Pulled Consent Agenda Items
14. Public hearing and final reading of an ordinance concerning the acquisition of interests in real property

located in Weld County, Colorado for sanitary sewer infrastructure, by purchase or exercise of the power of eminent domain, pursuant to Section 7 of Article XVI, Section 15 of Article ii, and Sections 1 and 6 of Article XX of the Colorado Constitution and Colo. Rev. Stat. § 38-1-101, et seq. (Ashcroft Lift Station)

15. Consideration of a resolution of the Greeley City Council authorizing the Greeley Police Department to allow a fee waiver for the release of criminal justice records

16. Scheduling of Meetings, Other Events

17. Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and at any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements and ordinances

18. Adjournment

Council Agenda Summary

July 16, 2019

Agenda Item Number 1

Title
Call to Order

Council Agenda Summary

July 16, 2019

Agenda Item Number 2

Title
Pledge of Allegiance

Council Agenda Summary

July 16, 2019

Agenda Item Number 3

Title
Roll Call

Summary
Mayor Gates
Councilmember Smail
Councilmember Payton
Councilmember Casseday
Councilmember Fitzsimmons
Councilmember Suniga
Councilmember Hall

Council Agenda Summary

July 16, 2019

Agenda Item Number 4

Title
Recognitions and Proclamations

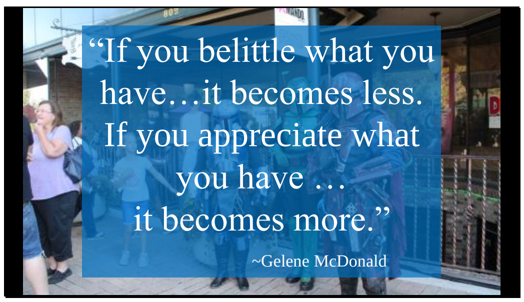
Summary
Councilmember Casseday will present the What's Great about Greeley Report.

Student travelers who visited our Sister City Moriya, Japan, June 20-28, along with staff and City Councilmember Robb Casseday, will present and share information about their experiences from this biennial cultural exchange.

Attachments
July 16, 2019 What's Great about Greeley Report

Slide 1

Slide 2



At each Council Meeting, we recognize the people, organizations and businesses that make Greeley Great. Tonight it's my turn to announce the recognitions. I'll start with a quote, "If you belittle what you have, it becomes less. If you appreciate what you have, it becomes more." With these announcements we are appreciating the good work of our residents, showing support for their efforts, and encouraging everyone to share the word that Greeley is Great.

Slide 3

Greeley has been ranked #6 in the nation on WalletHub's "2019 Best Places for First-Time Home Buyers" list. WalletHub compared 300 cities across 27 key indicators of market attractiveness, affordability and quality of life. (And by the way….Greeley ranked #3 for Quality of Life)

Slide 4

Twenty-nine Greeley-Evans School District 6 volunteers have qualified to receive the President's Volunteer Service Award for the hours they have logged this year working in schools and at other school district sites. The President's Volunteer Service Award recognizes United States citizens and residents who volunteer in their communities to make a difference in six areas of focus, one of which is education. Volunteers logged more than 31, 000 hours of service.

Slide 5

District 6's Billie Martinez Elementary School has been recognized as a Project Based Learning Champion School by the Buck Institute for Education. Billie Martinez was the only school in the nation to receive this award.

Slide 6

Kudos to Greeley City Councilmember Dale Hall for his re-election to the Colorado Municipal League Executive Board. The CML Board is responsible for overall finances, management and policy affairs of the League.

Slide 7

Congratulations to Greeley Central's Indigo Parlin for her recent nomination as the International Trustee for the national Key Club board. She will serve on a board of trustees at the international level, making decisions for the largest student-led service organization in the world as well as overseeing three of her own districts.

Slide 8

Greeley has been drawing some great attention lately. AAA Colorado's EnCompass magazine and the online blog "Love your parks tour" have both highlighted Greeley as THE place to visit, play and live. You Just Gotta' Get Here! :o)

Slide 9

Congratulations to University of Northern Colorado 2016 graduate Elizabeth Van Lierde. Her online blog, College Housewife, was voted the Most Entertaining Blog of 2018 by Saveur magazine. With over 100,000 followers, Elizabeth credits Greeley and Northern Colorado as her inspiration.

Slide 10

Greeley-Evans School District 6 has been awarded a $1.5 million grant from the state of Colorado through its 2019 School Access for Emergency Response grant program. The grant will be used to purchase radios and radio towers that will allow school safety teams at all schools, including charter schools, to be in direct radio communication with the Greeley Police Department, Evans Police

Department and Weld County Sheriff's office during an emergency. The grant will also provide training for safety teams and law enforcement agencies on crisis management and use of the radios.

Slide 11

Council Agenda Summary

July 16, 2019

Agenda Item Number 5

Title
Citizen Input

Summary
During this 15-minute portion of the meeting, anyone may address the Council on any item of City business appropriate for Council's consideration that is not already listed on this evening's agenda.

Individual speakers will be limited to 3 minutes each. Council and staff will respond tonight, if possible, to questions or requests. If further time or discussion is needed, a staff member will contact you within the next couple of days. Some items may need to be scheduled for a future meeting.

Council Agenda Summary

July 16, 2019

Agenda Item Number 6

Title
Approval of the Agenda

Council Agenda Summary

July 16, 2019

Agenda Item Number 7

Title
Reports from Mayor and Councilmembers

Summary
During this portion of the meeting any Councilmember may offer announcements or reports on recent events and happenings. These reports should be a summary of the Councilmember's attendance at assigned board/commission meetings and should include key highlights and points that may require additional decision and discussion by the full Council at a future time.

Board/Commission	Meeting Day/Time	Assignment
--Team of 2-- Board/Commission Interviews	Monthly as Needed	Council Rotation
Water & Sewer Board	3rd Wed, 2:00 pm	Gates
Youth Commission Liaison	4th Mon, 6:00 pm	Smail
Historic Preservation Loan	As Needed	Suniga
Police Pension Board	Quarterly	Suniga
Employee Health Board	As Needed	Suniga
Human Relations Commission Liaison	2nd Monday, 12:30 P.M.	Suniga
Airport Authority	3rd Thur, 3:30 pm	Casseday/Payton
Visit Greeley	3rd Wed, 7:30 am	Fitzsimmons
Upstate Colorado Economic Development	Last Wed, 7:00 am	Gates/Hall
Greeley Chamber of Commerce	4th Mon, 11:30 am	Gates
Island Grove Advisory Board	1st Thur, 3:30 pm	Smail
Weld Project Connect Committee (United Way)	As Needed	Fitzsimmons
Downtown Development Authority	3rd Thur, 7:30 am	Casseday/Smail
Transportation/Air Quality MPO	1st Thur, 6:00 pm	Casseday/Gates
Poudre River Trail	1st Thur, 7:00 am	Hall
Interstate 25 Coalition	As Needed	Gates
Highway 85 Coalition	As Needed	Payton
Highway 34 Coalition	As Needed	Payton
CML Policy Committee (Council or Staff)	As Needed	Payton and City Manager Roy Otto/Fitzsimmons alternate
CML Executive Board opportunity	As Needed	
CML - Other opportunities	As Available/Desired	

Council Agenda Summary

July 16, 2019

Agenda Item Number 8

Title
Petitions from Mayor and Councilmembers

Summary
During this portion of the meeting any Councilmember may bring before the Council any business that the member feels should be deliberated upon by the Council. These matters need not be specifically listed on the Agenda, but formal action on such matters shall be deferred until a subsequent Council meeting.

Petitions will generally fall into three categories:

1) A policy item for Council deliberation and direction for a future Worksession, Committee meeting, or regular/special Council meeting;

2) A request to the City Manager for information or research;

3) A request involving administrative processes or procedures.

At the close of this portion of the meeting, the Mayor will confirm Council's consensus that the individual requests be pursued.

Attachments
Status Report of Council Petitions and Related Information

Greeley City Council

Status Report of Council Petitions

Council Request	Council Meeting, Worksession, or Committee Meeting Date Requested	Status or Disposition (After completion, item is shown one time as completed and then removed.)	Assigned to:
None pending.			

Consent Agenda

July 16, 2019

The Consent Agenda is a meeting management tool to allow the City Council to handle several routine items with one action.

Once the Clerk has read each Consent Agenda item into the record, along with Council's recommended action, Council or staff may request the item be "pulled" off the Consent Agenda and considered separately under the next agenda item in the order they were listed.

The Consent Agenda includes Items No. 9 through 12 and their recommended actions.

Council's Recommended Action

To approve Items No. _____ through _____ or
To approve Items No. _____ through _____ with the exceptions of No.(s) _____

Council Agenda Summary

July 16, 2019

Agenda Item Number 9

Key Staff Contact: Betsy Holder, City Clerk, 970-350-9742

Title:

Approval of the City Council Proceedings of July 2, 2019

Summary:

A meeting of the City Council was held on July 2, 2019, in Council's Chambers at the City Center South Campus, 1001 11th Avenue, Greeley, Colorado.

Decision Options:

1. To approve the proceedings as presented; or
2. Amend the proceedings if amendments or corrections are needed, and approve as amended.

Council's Recommended Action:

A motion to approve the City Council proceedings as presented.

Attachments:

July 2, 2019 Proceedings

City of Greeley, Colorado
CITY COUNCIL PROCEEDINGS
July 2, 2019

1. Call to Order

Mayor John Gates called the meeting to order at 6:30 p.m., in the Council's Chambers at the City Center South Campus, 1001 11th Avenue.

2. Pledge of Allegiance

Mayor Gates led the Pledge of Allegiance to the American Flag.

3. Roll Call

Jessica Diagana, Assistant City Clerk, called the roll. Those present were Mayor John Gates and Councilmembers Robb Casseday, Michael Fitzsimmons, Dale Hall, Brett Payton, Jon Smail and Stacy Suniga.

4. Recognitions and Proclamations

Councilmember Smail presented the What's Great About Greeley Report.

5. Citizen Input

Steve Teets, Greeley resident, spoke of the need for a noise ordinance in light of the recent 4th of July holiday fireworks. He also stated that he does not think that people are thinking of their neighbors when they are doing fireworks.

6. Approval of Agenda

The agenda was approved as amended upon noting replacement documentation for Item Nos. 9, 14 and 15.

7. Reports from Mayor and Councilmembers

Councilmember Suniga reported on her attendance at a recent Human Relations Commission meeting which is busy making plans for several upcoming events.

Councilmember Hall spoke of the Poudre River noting it is full and running fast. He indicated that the Trail Manager stated that the river has reached its peak and there should be no problems on the trial.

Councilmember Casseday made mention of his recent trip to Sister City, Moriya, Japan and spoke of the dedication of the Culture, Parks and Recreation staff for a trip such as this.

8. Petitions from Mayor and Councilmembers

Councilmember Suniga spoke of the affordable housing issues that were discussed at the Colorado Municipal League Conference that she attended and asked that she begin working with City staff to engage discussions regarding affordable housing opportunities through the Department of Local Affairs. It was the consensus of Council for her to do so.

Councilmember Suniga also made mention of the condition of the sidewalks on 5th Avenue that have several trip hazards and asked that staff look into it.

*** * * * Consent Agenda * * * ***

9. Approval of the City Council Proceedings of June 4, 2019

The Council action recommended was to approve the Proceedings.

10. Acceptance of the Report of the June 25, 2019, City Council Worksession

The Council action recommended was to accept the Report.

11. Introduction and first reading of an ordinance concerning the acquisition of interests in real property located in Weld County, Colorado for sanitary sewer infrastructure, by purchase or exercise of the power of eminent domain, pursuant to Section 7 of Article XVI, Section 15 of Article ii, and Sections 1 and 6 of Article XX of the Colorado Constitution and Colo. Rev. Stat. § 38-1-101, et seq. (Ashcroft Lift Station)

The Council action recommended was to introduce the ordinance and schedule the public hearing and final reading for July 16, 2019.

12. Introduction and first Reading of an ordinance amending sections of Chapter 9 of the Greeley Municipal Code to require mandatory trash service and to make technical corrections to Code sections regarding refuse

This item was pulled from the Consent Agenda.

*** * * * End of Consent Agenda * * * ***

Councilmember Payton moved, seconded by Councilmember Hall to approve the items on the Consent Agenda and their recommended actions with the exception of Item No. 12. The motion carried: 7-0

13. Pulled consent agenda items

12. Introduction and first Reading of an ordinance amending sections of Chapter 9 of the Greeley Municipal Code to require mandatory trash service and to make technical corrections to Code sections regarding refuse

Councilmember Hall expressed that he feels that there is still something that needs to be done about refuse but that he cannot imagine that this ordinance will help. He stated that he would like staff to further investigate other options.

Mayor Gates thanked staff for their work on this issue noting that he does not feel that this ordinance is the solution to the problem.

Councilmember Hall moved, seconded by Councilmember Payton to deny the ordinance. The motion carried: 7-0

14. Public hearing and final reading of an ordinance amending Sections 2.07.040 and 4.20.160 of the Greeley Municipal Code regarding Intergovernmental Agreements and Change Orders

Renee Wheeler, Finance Director, reported that the intent of this ordinance is to add more specificity around when intergovernmental agreements should be submitted to City Council for consideration and more specificity for change orders to designate City Council consideration for cumulative change orders that would add 25% or more to the original contract cost of $100,000 or greater. She noted that these changes are consistent with code revisions from last year related to purchasing.

Mayor Gates opened the public hearing at 6:57 p.m., and no comments were offered.

Councilmember Fitzsimmons moved, seconded by Councilmember Casseday to amend the ordinance introduced on May 7, 2019 entitled "An ordinance amending Sections 2.07.040, 4.20.160, and 4.20.190 of the Greeley Municipal Code regarding Intergovernmental Agreements, Change Orders, and Contract Types" by removal of the proposed changes to 4.20.190 related to Types of Contracts. The motion carried: 7-0

Councilmember Fitzsimmons moved, seconded by Councilmember Suniga to adopt the ordinance as amended and publish in full. The motion carried: 7-0 **(Ordinance No. 27, 2019)**

15. Public hearing and final reading of an ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2019 and for funds held in reserve for encumbrances at December 31, 2018

Robert Miller, Budget and Compliance Manager, reviewed the requests for the third additional appropriation of the year including fund budget balances, appropriation funding sources, General Fund requests, special revenue funds, capital funds, enterprise funds, internal service fund, and provided a summary of the appropriation requests.

Mayor Gates opened the public hearing at 7:09 p.m.

Edwin Grant, Greeley resident, made mention of the supplemental request for LED outside light replacements at the FunPlex questioning why staff should choose LED over fluorescent lights due to concerns of hail and other damage. Joel Hemesath, Public Works Director, reported that the lights are covered and protected.

Mayor Gates closed the public hearing at 7:10 p.m.

Councilmember Casseday moved, seconded by Councilmember Hall to adopt the ordinance and publish with reference to title only. The motion carried: 7-0 **(Ordinance No. 28, 2019)**

16. Public hearing and final reading of an ordinance repealing Section 14.04.100 of the Greeley Municipal Code regarding the water and sewer budget setting process

Erik Dial, Utility Finance Manager, reported that the process for water and sewer budget development as provided for in 14.04.100 is no longer the most effective means of developing meaningful water and sewer budget recommendations, because the established deadlines are too early to know significant factors that influence prudent fiscal planning. He stated that it is more workable for the Water and Sewer budget development to align with the overall City budget development process to ensure a unified and equitable organizational strategy for personnel, equipment, services and capital projects.

Mayor Gates opened the public hearing at 7:14 p.m., and no comments were offered.

Councilmember Suniga moved, seconded by Councilmember Casseday to adopt the ordinance and publish with reference to title only. The motion carried: 7-0 **(Ordinance No. 29, 2019)**

17. Public hearing and final reading of an ordinance adopting amendments to the Greeley Municipal Code, including Chapter 18.04 and Appendix 18-A, regarding reassignment of City Engineer certification on plats and other development review documents to the Engineering Development Review and Civil Inspection Manager

Mike Garrott, Planning Manager, reported that this is a clean-up item of a process that has been in place for years that require multiple signatures from departments. He reported that this change will assist in streamlining the land use processes for applicants. The Planning and Engineering Development Review Departments will continue to coordinate with ancillary reviewers within the other departments of the City government, primarily Public Works and Water/Sewer Departments, by providing referrals during the land use process.

Mayor Gates opened the public hearing at 7:16 p.m., and no comments were offered.

Councilmember Casseday moved, seconded by Councilmember Payton to adopt the ordinance and publish with reference to title only. The motion carried: 7-0 **(Ordinance No. 30, 2019)**

18. Public hearing and final reading of an ordinance of the Greeley Municipal Code amending Chapter 9.18; amending Chapter 14.15; and amending Chapter 14.16 all related to the City of Greeley's Municipal Separate Storm Sewer System

Joel Hemesath, Public Works Director, spoke of the City's Municipal Separate Storm Sewer Systems (MS4) Permits and Stormwater's Water Quality Unit that was completed in 2018. He reviewed the proposed code revisions for MS4 permit requirements, illicit discharge detection and elimination, construction sites, post-construction stormwater management in new development and redevelopment, and noted that this is an opportunity to modernize a dated process.

Mayor Gates opened the public hearing at 7:28 p.m., and no comments were offered.

Councilmember Hall moved, seconded by Councilmember Suniga to adopt the ordinance and publish with reference to title only. The motion carried: 7-0 **(Ordinance No. 31, 2019)**

19. Appointment of applicants to the Citizen Budget Advisory Committee, Construction Trades Advisory & Appeals Board, Downtown Development Authority, Rodarte Community Center Advisory Board, Water & Sewer Board, Youth Commission

Citizen Budget Advisory Committee	Laura Fischer
Construction Trades Advisory & Appeals Board	Wendell Heyen
	James Morris
	Brian Persons
Downtown Development Authority	Matthew Anderson
	T. Drew Notestine
	Ken Schultz
Rodarte Community Center Advisory Board	Emma Pena-McCleave
Water & Sewer Board	Fred Otis
	Manuel Sisneros
Youth Commission	Jakob Crowell

20. Scheduling of meetings, other events

No additional meetings, or other events were scheduled.

21. Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and at any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements, and ordinances

Councilmember Casseday moved, seconded by Councilmember Payton to approve the above authorizations, and the motion carried: 7-0

22. Adjournment

There being no further business to come before the Council, Mayor Gates adjourned the meeting at 7:31 p.m.

John Gates, Mayor

Jessica Diagana, Assistant City Clerk

Council Agenda Summary

July 16, 2019

Agenda Item Number 10

Key Staff Contact: Betsy Holder, City Clerk, 970-350-9742

Title:

Acceptance of the Report of the July 9, 2019, City Council Worksession

Summary:

A City Council Worksession was held on July 9, 2019, in Council's Chambers at the City Center South Campus, 1001 11th Avenue, Greeley, Colorado.

Decision Options:

1. To accept the Report as presented; or
2. Amend the Report if amendments or corrections are needed, and accept as amended.

Council's Recommended Action:

A motion to accept the Report as presented.

Attachments:

July 9, 2019 Report

City of Greeley, Colorado
COUNCIL WORKSESSION REPORT
July 9, 2019

1. CALL TO ORDER

The meeting was called to order at 5:00 p.m. by Mayor John Gates, in the Council's Chambers at the City Center South Campus, 1001 11th Avenue.

2. PLEDGE OF ALLEGIANCE

Mayor Gates led the Pledge of Allegiance to the American Flag.

3. ROLL CALL

Cheryl Aragon, Deputy City Clerk, called the roll. Those present were Mayor Gates and Councilmembers Robb Casseday, Michael Fitzsimmons, Dale Hall, Jon Smail, Brett Payton and Stacy Suniga.

4. UNIVERSITY OF NORTHERN COLORADO UPDATE

Dr. Andrew Feinstein, University of Northern Colorado President, was present and provided a brief update regarding the University as he celebrates his first year in this role.

He reviewed statistics relative to student population and various programs and noted that he is working to be transparent and create an open environment that engages the community and builds collaborative relationships.

As far as long-term planning, he made note of the work to build a strategic plan for the next ten years and a vision that will make UNC distinctive.

Councilmember Fitzsimmons expressed that Downtown businesses want to see a UNC presence in Downtown, and Dr. Feinstein stated that there will be a big effort to engage students and to find ways to have a bigger presence Downtown.

In response to a question from Councilmember Smail about the Greeley/UNC relationship during the strategic planning process, Dr. Feinstein indicated that the relationship will continue to be a focus and noted that UNC is an anchor tenant in Greeley and wants to be a good community citizen in the retail arena as well as welcoming the community to the Campus.

Dr. Feinstein stated that he plans to continue to engage in areas such as the Creative District, will pull together a delegation from the City and the University to go to the State Capital to discuss legislation, and will work to bring students Downtown as already mentioned.

Mayor Gates stated that he was honored to have spoken at Dr. Feinstein's Investiture, and added that he wants to make sure that the City does all it can to come alongside UNC in their ventures.

5. WORKPLACE CULTURE DEVELOPMENT

Roy Otto, City Manager, provided an overview of the current effort to create a workplace culture of excellence, known as PROpel, thus becoming a community of excellence. Examples of ways the City has achieved this already is the engagement of School District 6 and the Greeley Unexpected Campaign as well. He reminded the Council that Greeley was recently named as the 8th most dynamic city in the Country.

He went on to state that Workplace Culture, defined as the values and behaviors that contribute to the unique social and psychological environment of an organization, is an important component to the recruitment and retention of employees. For a number of years, the City has been intentional in working to build and maintain a culture of high performance in support of community excellence. Culture development is a continual process with no beginning or end. Greeley's cultural work was elevated with the development of organizational values of: Applied Wisdom, Excellence, Accountability, Stewardship, Principled Relationships and Integrity. Our efforts to build relationships with the community known as Achieving Community Excellence ultimately became our organizational mission statement: We Aspire to be a City Achieving Community Excellence.

He concluded by stating that these elements of the continuous effort will build and maintain an intentional organizational culture that positions the City as an employer of choice. These efforts and investments will maximize the quality of life for and delivery of services and programs to the community.

6. GREELEY RETAIL MARKET ASSESSMENT

Ben Snow, Economic Development Director, reported that at the request of City Manager Otto and Councilman Hall, he has prepared a Retail Market Assessment for the City of Greeley. He stated that Greeley has enjoyed considerable success in retail development during the years since the Great Recession; however, there are still areas within the City that remain under-served by retail services. An assessment was conducted to provide a general state of conditions for retail development and to highlight some of the opportunities we could pursue going forward and proceeded to highlight that assessment.

He stated that his recommendation would be to be more aggressive than in the past and to send City representatives to the annual ICSC Conference via an additional appropriation of funding that has been requested in the amount of $15,000.

He reported that the Promentory area is in need of some commercial given that the roughly 3,500 employees are currently have to drive 15 minutes into Greeley or 15 minutes out to the Interstate. This area has the greatest potential for commerce.

Councilmembers offered their general support for Mr. Snow's recommendation to step up efforts and to participate in the ICSC Conference.

Mr. Snow added that he will continue its' professional memberships as well including with the Urban Land Institute where there are unlimited resources and networking opportunities to take advantage of.

7. 2018 FINANCIAL AUDIT REPORT AND COMPREHENSIVE ANNUAL FINANCIAL REPORT

Tyra Litzau, ACM, L.L.P., reported that they were engaged to conduct the the City's Audit, an effort to review the City's financial records, reports and processes, in compliance with City Charter Title 2 Chapter 12.090.

She stated that the City has received a "clean" opinion from ACM, L.L.P., which suggests that the financial report presented materially reflects the financial condition of the City and that it's important to City staff that City Council and the citizens of Greeley understand that Finance views the auditor's role as more than producing reports.

She went on to review the analysis done on many financial performance indicators and noted that they work to evaluate the financial condition trends of the City. Staff conducts an analysis of many financial performance indicators to monitor the City's financial position over a rolling ten years.

She went on to review the financial statement highlights including statements of net position; statements of revenues, expenses, and changes in net position; statements of cash flows and all enterprise funds.

Renee Wheeler, Finance Director, thanked the ACM team, as well as the City's executive teams and departments who are following this important policy very well.

Mayor Gates noted that this should be great news to the community and that he feels great about the clean opinion from the auditors.

8. SCHEDULING OF MEETINGS, OTHER EVENTS

No additional meetings or other events were scheduled.

Councilmember Casseday reported that the monthly MPO meeting that was postponed has been rescheduled to Thursday, July 11, 2019 hosted by Weld County.

9. ADJOURNMENT

There being no further business to come before the Council, Mayor Gates adjourned the meeting at 6:42 p.m.

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Cheryl Aragon, Deputy City Clerk

Council Agenda Summary

July 16, 2019

Agenda Item Number 11

Key Staff Contact: Joel Hemesath, Public Works Director, 970-350-9795

Title:
Consideration of a resolution of the City of Greeley Council authorizing the City to enter into an Intergovernmental Agreement for congestion mitigation and air quality grant funding with the Colorado Department of Transportation

Summary:
The City of Greeley has been awarded Congestion Mitigation and Air Quality (CMAQ) grant funding for traffic signal controller and operating system software replacement. The signals in Greeley are currently operating using outdated signal controller technology. This project would update the controllers to improve signal operations. The funds will replace the controllers at all 117 signal locations in Greeley. The lifespan of the controllers can be between 8 to 10 years, and will allow for advancement in peer to peer signal communication and autonomous vehicle technology.

The funds were awarded through a competitive grant allocation process administered by the North Front Range Metropolitan Planning Organization (NFRMPO). The grant funding is managed by CDOT, and an IGA is required between CDOT and the City of Greeley to authorize the use of the CMAQ grant funding.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	$520,594.00 CMAQ funding $309,406.00 Local match $830,000.00 Total
What is the annual impact?	N/A
What fund of the City will provide Funding?	Fund 304 304.1814
What is the source of revenue within the fund?	Food Tax
Is there grant funding for this item?	Yes
If yes, does this grant require a match?	Yes
Is this grant onetime or ongoing?	Onetime
Additional Comments:	These fund were awarded by the NFRMPO, in which Greeley is a voting member.

Legal Issues:
None.

Other Issues and Considerations:
None.

Applicable Council Priority and Goal:
Safety: Manage the health, safety and welfare in a way that promotes a sense of security and well-being for residents, businesses and visitors.

Infrastructure & Growth: Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.

Decision Options:
1) Adopt the resolution as presented; or
2) Amend the resolution and adopt as amended; or
3) Deny the resolution; or
4) Continue consideration of the resolution to a date certain.

Council's Recommended Action:
A motion to adopt the Resolution.

Attachments:
Resolution
Intergovernmental Agreement

THE CITY OF GREELEY, COLORADO

RESOLUTION _________, 2019

A RESOLUTION OF THE CITY OF GREELEY COUNCIL AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR CONGESTION MITIGATION AND AIR QUALITY GRANT FUNDING WITH THE COLORADO DEPARTMENT OF TRANSPORTATION

WHEREAS, in accordance with C.R.S. § 29-1-203, governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units of government; and

WHEREAS, the City of Greeley ("City") has been awarded Congestion Mitigation and Air Quality ("CMAQ") grant funding for traffic signal controller replacement and operating system software replacement; and

WHEREAS, the funding was awarded through a competitive grant allocation process administered by the North Front Range Metropolitan Planning Organization ("NFRMPO"), and managed by the Colorado Department of Transportation ("CDOT"); and

WHEREAS, the City desires to enter into an agreement with CDOT to memorialize and authorize the use of the CMAQ grant funding; and

WHEREAS, it is in the best interest of the citizens of the City of Greeley for Council to enter into this Agreement.

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

<u>Section 1.</u> The City Council hereby authorizes the City to enter into an Intergovernmental Agreement entitled "Purchase & Installation: Central System & Controller" with the Colorado Department of Transportation, a copy of which is attached hereto and incorporated herein as Exhibit A.

<u>Section 2</u>. City staff is hereby authorized to make changes and modifications to the Agreement, so long as the substance of the Agreement remains unchanged.

<u>Section 3</u>. This Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS ______ day of ______________________, 2019.

ATTEST: THE CITY OF GREELEY, COLORADO

City Clerk

Mayor

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT
Signature and Cover Page

State Agency Department of Transportation			**Agreement Routing Number** 19-HA4-XC-00078
Local Agency CITY OF GREELEY			**Agreement Effective Date** The later of the effective date or May 20, 2019
Agreement Description Purchase & Installation: Central System & Controller			**Agreement Expiration Date** May 19, 2024
Project # AQC M570-051 (21990)	**Region #** 4	**Contract Writer** DZ	**Agreement Maximum Amount** $520,594.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

LOCAL AGENCY CITY OF GREELEY ________________________ Signature ________________________ By: (Print Name and Title) Date: ________________	**STATE OF COLORADO** Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director ________________________ Joshua Laipply, P.E., Chief Engineer Date: ________________
2nd State or Local Agency Signature if Needed ________________________ Signature ________________________ By: (Print Name and Title) Date: ________________	**LEGAL REVIEW** Philip J. Weiser, Attorney General ________________________ Assistant Attorney General ________________________ By: (Print Name and Title) Date: ________________

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

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By:______________________________
Department of Transportation

Effective Date:__________________

TABLE OF CONTENTS

1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase ("Phase Performance Period(s)"). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance

End Date, as shown in **Exhibit C**.

B. Initial Term

The Parties' respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on the date of notice of CDOT final acceptance ("Agreement Expiration Date") shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Early Termination in the Public Interest

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

i. Method and Content

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

ii. Obligations and Rights

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

iii. Payments

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

3. AUTHORITY

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

A. Federal Authority

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

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

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

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. "**Agreement**" means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.

B. "**Agreement Funds**" means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.

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

D. "**Budget**" means the budget for the Work described in **Exhibit C**.

E. "**Business Day**" means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.

F. "**Consultant**" means a professional engineer or designer hired by Local Agency to design the Work Product.

G. "**Contractor**" means the general construction contractor hired by Local Agency to construct the Work.

H. "**CORA**" means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

I. "**Effective Date**" means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.

J. "**Evaluation**" means the process of examining Local Agency's Work and rating it based on criteria established in **§6, Exhibit A** and **Exhibit E**.

K. "**Exhibits**" means the following exhibits attached to this Agreement:

i. **Exhibit A**, Statement of Work.

ii. **Exhibit B,** Sample Option Letter.

iii. **Exhibit C**, Funding Provisions

iv. **Exhibit D**, Local Agency Resolution

v. **Exhibit E**, Local Agency Contract Administration Checklist

vi. **Exhibit F**, Certification for Federal-Aid Contracts

vii. **Exhibit G**, Disadvantaged Business Enterprise

viii. **Exhibit H**, Local Agency Procedures for Consultant Services

ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts

x. **Exhibit J**, Additional Federal Requirements

xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions

xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form

xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance")

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

M. "**Federal Awarding Agency**" means a Federal agency providing a Federal Award to a Recipient.

N. "**FHWA**" means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation's highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.

O "**Goods**" means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

P. "**Incident**" means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.

Q. "**Initial Term**" means the time period defined in **§2.B**

R. "**Notice to Proceed**" means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.

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

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

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

V. "**PII**" means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S.

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

X. "**Services**" means the services to be performed by Local Agency as set forth in this Agreement, and shall include any services to be rendered by Local Agency in connection with the Goods.

Y. **"State Confidential Information"** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.

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

AA. **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

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

CC. **"State Records"** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

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

EE. "**Subrecipient**" means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.

FF. "**Uniform Guidance**" means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.

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

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

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

6. STATEMENT OF WORK

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

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

A. Local Agency Commitments

i. Design

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

a. Perform or provide the Plans to the extent required by the nature of the Work.

b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.

c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.

d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.

e. Stamp the Plans as produced by a Colorado registered professional engineer.

f. Provide final assembly of Plans and all other necessary documents.

g. Ensure the Plans are accurate and complete.

h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.

ii. Local Agency Work

a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation

Projects".

b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.

c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:

1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.

2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.

3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.

4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.

5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b)and (d).

6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:

(a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

(b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.

(c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.

(d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.

b. Local Agency shall be responsible for the following:

1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).

2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).

(a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (**Exhibit I**) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).

(b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within 3 working days after they are publicly opened.

(c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.

(d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

(e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.

b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.

c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at http://www.codot.gov/business/manuals/right-of-way); however, the State always retains oversight responsibilities.

d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:

1) Right of way acquisition (3111) for federal participation and non-participation;

2) Relocation activities, if applicable (3109);

3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

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

vi. Railroads

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

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

vii. Environmental Obligations

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

viii. Maintenance Obligations

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

ix. Monitoring Obligations

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

B. State's Commitments

i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.

ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E**.

7. PAYMENTS

A. Maximum Amount

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

B. Payment Procedures

i. Invoices and Payment

a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.

b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.

c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.

d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

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

iii. Payment Disputes

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

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**

v. Erroneous Payments

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

C. Matching Funds

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

D. Reimbursement of Local Agency Costs

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

i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.

ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

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

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

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

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

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

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

iii. Option to Exercise Options i and ii.

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

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

F. Accounting

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

i. Local Agency Performing the Work

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

ii. Local Agency-Checks or Draws

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

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

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

v. Invoicing Within 60 Days

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

vi. Risk Assessment & Monitoring

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

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

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

G. Close Out

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

8. REPORTING - NOTIFICATION

A. Quarterly Reports

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

B. Litigation Reporting

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

C. Performance and Final Status

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

D. Violations Reporting

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

9. LOCAL AGENCY RECORDS

A. Maintenance

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

B. Inspection

Local Agency shall permit the State to audit, inspect, examine, excerpt, copy, and transcribe Local Agency Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

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

D. Final Audit Report

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

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

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

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

11. CONFLICT OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

12. INSURANCE

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

A. Local Agency Insurance

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

B. Subcontractor Requirements

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

i. Workers' Compensation

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

ii. General Liability

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

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

iii. Automobile Liability

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

iv. Protected Information

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

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

b. $2,000,000 general aggregate.

v. Professional Liability Insurance

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

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

b. $1,000,000 general aggregate.

vi. Crime Insurance

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

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

b. $1,000,000 general aggregate.

C. Additional Insured

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

D. Primacy of Coverage

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

E. Cancellation

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

F. Subrogation Waiver

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

G. Certificates

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

13. BREACH

A. Defined

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

B. Notice and Cure Period

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

14. REMEDIES

A. State's Remedies

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

i. Termination for Breach

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

a. Obligations and Rights

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

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

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

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

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

B. Local Agency's Remedies

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

15. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

16. NOTICES AND REPRESENTATIVES

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

For the State

Colorado Department of Transportation (CDOT)
Jake Schuch, Project Manager
CDOT Region 4
10601 W. 10th St.
Greeley, CO 80634
970-350-2205
jake.schuch@state.co.us

For the Local Agency

CITY OF GREELEY
Allison Baxter, Transportation Planner
1001 9th Avenue
Greeley, CO 80631
970-350-9326
Allison.baxter@greeleygov.com

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

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

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

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

B. Exclusive Property of the State

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

18. GOVERNMENTAL IMMUNITY

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

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

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

20. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

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

C. Binding Effect

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

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

I. Modification

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

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

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

K. Order of Precedence

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

i. Colorado Special Provisions in the main body of this Agreement.

ii. The provisions of the other sections of the main body of this Agreement.

iii **Exhibit A**, Statement of Work.

iv. **Exhibit D**, Local Agency Resolution.

v. **Exhibit C**, Funding Provisions.

vi. **Exhibit B**, Sample Option Letter.

vii. **Exhibit E**, Local Agency Contract Administration Checklist.

viii. Other exhibits in descending order of their attachment.

L. Severability

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

M. Survival of Certain Agreement Terms

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

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.* C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local

Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

N. Third Party Beneficiaries

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

O. Waiver

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

P. CORA Disclosure

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

Q. Standard and Manner of Performance

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

R. Licenses, Permits, and Other Authorizations.

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

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

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

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

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

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

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

C. GOVERNMENTAL IMMUNITY.

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

D. INDEPENDENT CONTRACTOR

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

provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

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

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

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

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

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

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq*., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

Revised 11-1-18

22. FEDERAL REQUIREMENTS

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

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

24. DISPUTES

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

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Exhibit A – STATEMENT OF WORK

Project AQC M570-051 (21990) Central System & Controller

Scope of Work:

The Colorado Department of Transportation (CDOT) will oversee the City of Greeley when the City of Greeley completes the following: Purchase and installation of central system and signal controller equipment (Herein referred to as “this work”). CDOT and the City of Greeley believe it will be beneficial to perform this work to update their system to improve signal timing and communication.

This project will conform to all applicable state and federal regulations and standards. The design phase will begin in 2019. Procurement and installation of the signal equipment will occur after July 2019 and will be completed as soon as reasonably possible.

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EXHIBIT B, SAMPLE OPTION LETTER

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

1. OPTIONS:

A. Option to extend for an Extension Term

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

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

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

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

2. REQUIRED PROVISIONS:

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

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

Option C
In accordance with Section 7, E of the Original Agreement referenced above, the State hereby excerises its option to authorize the Local Agency to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to*

which funds will be moved) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

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

(The following language must be included on ALL options):

The Agreement Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

Option E

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

3. OPTION EFFECTIVE DATE:

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

APPROVALS:

State of Colorado:
Jared S. Polis, Governor

By:____Date: ___________________
Executive Director, Colorado Department of Transportation

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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

State Controller
Robert Jaros, CPA, MBA, JD

By: ___________________________________

Date: _________________________________

A. **Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be $520,594.00, which is to be funded as follows:

1.	**BUDGETED FUNDS**	
a.	Federal Funds (82.79% of Participating Costs)	$431,000.00
b.	Local Agency Matching Funds (17.21% of Participating Costs)	$89,594.00
	TOTAL BUDGETED FUNDS	$520,594.00
2.	**OMB UNIFORM GUIDANCE**	
a.	Federal Award Identification Number (FAIN):	TBD
b.	Federal Award Date (also Phase Performance Start Date):	See Below
c.	Amount of Federal Funds Obligated:	$0.00
d.	Total Amount of Federal Award:	$431,000.00
e.	Name of Federal Awarding Agency:	FHWA
f.	CFDA# - Highway Planning and Construction	CFDA 20.205
g.	Is the Award for R&D?	No
h.	Indirect Cost Rate (if applicable)	N/A
3.	**ESTIMATED PAYMENT TO LOCAL AGENCY**	
a.	Federal Funds Budgeted	$431,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	$0.00
	TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	$431,000.00
4.	**FOR CDOT ENCUMBRANCE PURPOSES**	
a.	Total Encumbrance Amount	$520,594.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	$0.00
	Net to be encumbered as follows:	$520,594.00

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

	Performance Period Start*/End Date			
WBS Element 21990.10.50	TBD / TBD	Misc.	3404	$0.00

***The Local Agency should not begin work until all three of the following are in place:**

1) Phase Performance Period Start Date; 2) The execution of the document encumbering funds for the respective phase; and

3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three milestones are achieved will not be reimbursable.

B. Matching Funds

The matching ratio for the federal participating funds for this Work is 82.79% federal-aid funds to 17.21% Local Agency funds, it being understood that such ratio applies only to the $520,594.00 that is eligible for federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds $520,594.00, and additional federal funds are made available for the Work, the Local Agency shall pay 17.21% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the Local Agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than $520,594.00, then the amounts of Local Agency and federal-aid funds will be decreased in accordance with the funding ratio described herein. The performance of the Work shall be at no cost to the State.

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be $431,000.00 (for CDOT accounting purposes, the federal funds of $431,000.00 and the Local Agency matching funds of $89,594.00 will be encumbered for a total encumbrance of $520,594.00), unless such amount is increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.

The maximum amount payable shall be reduced without amendment when the actual amount of the Local Agency's awarded contract is less than the budgeted total of the federal participating funds and the Local Agency matching funds. The maximum amount payable shall be reduced through the execution of an Option Letter as described in Section 7. A. of this contract.

D. Single Audit Act Amendment

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

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

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

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

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

EXHIBIT D, LOCAL AGENCY RESOLUTION

NOT APPLICABLE

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

The following checklist has been developed to ensure that all required aspects of a project approved for Federal funding have been addressed and a responsible party assigned for each task.

After a project has been approved for Federal funding in the Statewide Transportation Improvement Program, the Colorado Department of Transportation (CDOT) Project Manager, Local Agency project manager, and CDOT Resident Engineer prepare the checklist. It becomes a part of the contractual agreement between the Local Agency and CDOT. The CDOT Agreements Unit will not process a Local Agency agreement without this completed checklist. It will be reviewed at the Final Office Review meeting to ensure that all parties remain in agreement as to who is responsible for performing individual tasks.

COLORADO DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

Project No. AQC M570-051	STIP No. SNF5173.052	Project Code 21990	Region 04

Project Location City of Greeley	Date 4/9/2019

Project Description Central System and Controller Replacement

Local Agency City of Greeley	Local Agency Project Manager Allison Baxter
CDOT Resident Engineer Katrina Kloberdanz	CDOT Project Manager Jake Schuch

INSTRUCTIONS:
This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the *CDOT Local Agency Manual*.

The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve.

Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT.

The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist.

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	 CDOT
TIP / STIP AND LONG-RANGE PLANS			
2-1	Review Project to ensure consistency with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4-1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5-1	Prepare Design Data - CDOT Form 463		X
5-2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5-3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5-4	Conduct Design Scoping Review meeting	X	X
5-5	Conduct Public Involvement	X	
5-6	Conduct Field Inspection Review (FIR)	X	
5-7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5-8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
5-9	Obtain Utility and Railroad Agreements	X	
5-10	Conduct Final Office Review (FOR)	X	
5-11	Justify Force Account Work by the Local Agency – CDOT Form 895	X	#
5-12	Justify Proprietary, Sole Source, or Local Agency Furnished items - CDOT Form 1381	X	#
5-13	Document Design Exceptions - CDOT Form 464	X	#
5-14	Prepare Plans, Specifications and Construction Cost Estimates	X	#
5-15	Ensure Authorization of Funds for Construction – CDOT Form 1180		X

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	RESPONSIBLE PARTY CDOT
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6-1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6-2	Determine Applicability of Davis-Bacon Act This project ☐ is ☒ is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Katrina Kloberdanz 4/9/2019 CDOT Resident Engineer(Signature on File) Date		X
6-3	Set On-the-Job Training Goals.		X
6-4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD			
7-1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	#
7-2	Advertise for Bids	X	
7-3	Distribute “Advertisement Set” of Plans and Specifications	X	
7-4	Review Worksite and Plan Details with Prospective Bidders While Project is Under Advertisement	X	
7-5	Open Bids	X	
7-6	Process Bids for Compliance	X	#
	Check CDOT Form 1415 - Certificate of Proposed DBE Participation when the low bidder meets DBE goals		X
	Evaluate CDOT Form 1416 - DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	#
7-7	Concurrence from CDOT to Award		X
7-8	Approve Rejection of Low Bidder		X
7-9	Award Contract	X	#
7-10	Provide “Award” and “Record” Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8-1	Issue Notice to Proceed to the Contractor	X	
8-2	Project Safety	X	
8-3	Conduct Conferences:		
	Pre-construction Conference (Appendix B)	X	
	Presurvey • Construction staking • Monumentation	 X X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in *CDOT Construction Manual)*	X	
	Concrete Pavement Pre-Paving (Agenda is in *CDOT Construction Manual)*	X	
	HMA Pre-Paving (Agenda is in *CDOT Construction Manual)*	X	
8-4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8-5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be “in responsible charge of construction supervision.” TBD Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8-6	Approve Shop Drawings	X	
8-7	Perform Traffic Control Inspections	X	#
8-8	Perform Construction Surveying	X	
8-9	Monument Right-of-Way	X	
8-10	Prepare and Approve Interim and Final Contractor Pay Estimates Provide the name and phone number of the person authorized for this task. Allison Baxter 970-350-9326 Local Agency Representative Phone number	X	
8-11	Prepare and Approve Interim and Final Utility/Railroad Billings	X	
8-12	Prepare Local Agency Reimbursement Requests	X	
8-13	Prepare and Authorize Change Orders – CDOT Form 90	X	#
8-14	Approve All Change Orders		X
8-15	Monitor Project Financial Status	X	
8-16	Prepare and Submit Monthly Progress Reports	X	
8-17	Resolve Contractor Claims and Disputes	X	
8-18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. Katrina Kloberdanz 970-350-2211 CDOT Resident Engineer Phone number		X
MATERIALS			
9-1	Discuss Materials at Preconstruction Meeting -Buy America documentation **prior** to installation of steel	X	
9-2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	 X X	 X
9-3	Perform Project Acceptance Samples and Tests	X	
9-4	Perform Laboratory Verification Tests	X	
9-5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0” to 6” or greater) • Fabrication of bearing devices	X X X X	
9-6	Approve Sources of Materials	X	
9-7	Independent Assurance Testing (IAT), Local Agency Procedures ☒ CDOT Procedures ☐ • Generate IAT schedule – CDOT Form 379 • Schedule and provide notification • Conduct IAT	 X X	 X
9-8	Approve Mix Designs • Concrete • Hot Mix Asphalt	 X X	 # #
9-9	Check Final Materials Documentation	X	
9-10	Complete and Distribute Final Materials Documentation	X	

CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10-1	Fulfill Project Bulletin Board and Pre-construction Packet Requirements	**X**	
10-2	Process CDOT Form 205b - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	**X**	
10-3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	**X**	
10-4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" requirements – CDOT Form 1432	**X**	
10-5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	**X**	
10-6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	**X**	**#**
10-7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	**X**	
FINALS			
11-1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)	**X**	**#**
11-2	Write Final Project Acceptance Letter	**X**	
11-3	Advertise for Final Settlement	**X**	
11-4	Prepare and Distribute Final As-Constructed Plans	**X**	
11-5	Prepare EEO Certification	**X**	
11-6	Check Final Quantities, Plans and Pay Estimate; Check Project Documentation; and submit Final Certifications	**X**	
11-7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	**X**	
11-8	Obtain CDOT Form 1419 - Contractor DBE Payment Certification from the Contactor and submit to the Resident Engineer (Quarterly)	**X**	
11-9	Obtain FHWA Form 47 - Statement of Materials and Labor Used … from the Contractor		**NA**
11-10	Process Final Payment	**X**	
11-11	Complete and Submit CDOT Form 950 - Project Closure		**X**
11-12	Retain Project Records for Three Years from Date of Project Closure	**X**	**X**
11-13	Retain Final Version of Local Agency Contract Administration Checklist	**X**	**X**

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

EXHIBIT F, CERTIFICATION FOR FEDERAL-AID CONTRACTS

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

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

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

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

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

EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

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

SECTION 2. DBE Obligation.

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

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).
A copy of the DBE Program is available from and will be mailed to the Local Agency upon request:

Civil Rights & Business Resource Center

Colorado Department of Transportation

2829 W. Howard Place

Denver, Colorado 80204

Phone: (303) 757-9234

REVISED 1/22/98 REQUIRED BY 49 CFR PART 26

EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

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

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

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

1. The contracting local agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting local agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The request for consultant services should include the scope of work, the evaluation factors and their relative importance, the method of payment, and the goal of 10% for Disadvantaged Business Enterprise (DBE) participation as a minimum for the project.
5. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

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

   a. Qualifications,

   b. Approach to the Work,

   c. Ability to furnish professional services.

d. Anticipated design concepts, and

e. Alternative methods of approach for furnishing the professional services.

Evaluation factors for final selection are the consultant's:

a. Abilities of their personnel,

b. Past performance,

c. Willingness to meet the time and budget requirement,

d. Location,

e. Current and projected work load,

f. Volume of previously awarded contracts, and

g. Involvement of minority consultants.

6. Once a consultant is selected, the local agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than $50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.

7. A qualified local agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the local agency prepares a performance evaluation (a CDOT form is available) on the consultant.

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

EXHIBIT I, FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

ATTACHMENTS

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

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

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

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

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS

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

Executive Order 11246

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

Copeland "Anti-Kickback" Act

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

Davis-Bacon Act

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

Contract Work Hours and Safety Standards Act

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

Clear Air Act

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

Energy Policy and Conservation Act

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

OMB Circulars

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

Hatch Act

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

Nondiscrimination

42 USC 6101 et seq. 42 USC 2000d, 29 USC 794, and implementing regulation, 45 C.F.R. Part 80 et. seq. These acts require that no person shall, on the grounds of race, color, national origin, age, or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or part, by federal funds.

ADA

The Americans with Disabilities Act (Public Law 101-336; 42 USC 12101, 12102, 12111-12117, 12131-12134, 12141-12150, 12161-12165, 12181-12189, 12201-12213 47 USC 225 and 47 USC 611.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

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

Drug-Free Workplace Act

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

Age Discrimination Act of 1975

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

23 C.F.R. Part 172

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

23 C.F.R Part 633

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

23 C.F.R. Part 635

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

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

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

Nondiscrimination Provisions:

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

i. Compliance with Regulations

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

ii. Nondiscrimination

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

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

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

iv. Information and Reports

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

v. Sanctions for Noncompliance

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

Incorporation of Provisions §22

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

EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS

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

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

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

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

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

Award ***does not*** include:

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

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

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

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

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

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

1.5.4. A domestic or foreign for-profit organization; and

1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.

1.6. "Executive" means an officer, managing partner or any other employee in a management position.

1.7. "Federal Award Identification Number (FAIN)" means an Award number assigned by a Federal agency to a Prime Recipient.

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

1.9. "Prime Recipient" means a Colorado State agency or institution of higher education that receives an Award.

1.10. "Subaward" means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient's support in the performance of all or any portion of the substantive project or program for which the Award was granted.

1.11. "Subrecipient" means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term "Subrecipient" includes and may be referred to as Subgrantee.

1.12. "Subrecipient Parent DUNS Number" means the subrecipient parent organization's 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient's System for Award Management (SAM) profile, if applicable.

1.13. "Supplemental Provisions" means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.

1.14. "System for Award Management (SAM)" means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at http://www.sam.gov.

1.15. "Total Compensation" means the cash and noncash dollar value earned by an Executive during the Prime Recipient's or Subrecipient's preceding fiscal year and includes the following:

1.15.1. Salary and bonus;

1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;

1.15.4. Change in present value of defined benefit and actuarial pension plans;

1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;

1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds $10,000.

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

1.17 "Vendor" means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**

   3.1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.

   3.2. DUNS. Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.

4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

   4.1. The total Federal funding authorized to date under the Award is $25,000 or more; and

   4.2. In the preceding fiscal year, Contractor received:

      4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

      4.2.2. $25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

   4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in **§2** above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at http://www.colorado.gov/dpa/dfp/sco/FFATA.htm.

6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is $25,000 or more. If the initial Award is below $25,000 but subsequent Award modifications result in a total Award of $25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds $25,000. If the initial Award is $25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below $25,000, the Award shall continue to be subject to the reporting requirements.

7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

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

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

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

7.2.1 Subrecipient's DUNS Number as registered in **SAM**.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than $300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

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

EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

CDOT SUBRECIPIENT RISK ASSESSMENT	Date:		
Name of Entity (Subrecipient):			
Name of Project / Program:			
Estimated Award Period:			
Entity Executive Director or VP:			
Entity Chief Financial Officer:			
Entity Representative for this Self Assessment:			

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

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

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. *If Yes, please submit with this form.*	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project *(Buy America requirements*)? *If Yes, please submit with this form.*	☐	☐	☐

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

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

CO CDOT

Tool Version: v2.0 (081816)

EXHIBIT M, OMB Uniform Guidance for Federal Awards

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. Compliance. Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

11. Procurement Standards.

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

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

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

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

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

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

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

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

6.1 Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by

Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

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

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

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

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

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

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

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

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

4.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in

Part by Loans or Grants from the United States"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

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

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

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

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

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

1. 8. **Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

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

10. **Performance Measurement**

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

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

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

Council Agenda Summary

July 16, 2019

Agenda Item Number 12

Key Staff Contact: Mark Jones, Police Chief, 970-350-9665

Title:
Introduction and first reading of an ordinance repealing Title 7, Animals, of the Greeley Municipal Code and replacing it with a new Title 7, Animals

Summary:
In February 2016, the U.S. District Court found fault with the animal impoundment procedures as outlined in the City of Greeley Municipal Ordinances Title 7- Animals. The language in the previous ordinance failed to clearly establish guidelines and procedures to protect the due process of violators during the impoundment of animals and did not provide sufficient protections to the property interests of the animal owners in these cases.

Since this time, the police department's animal control officers have utilized the animal impoundment procedures of the Weld County Court system, which can be more cumbersome and less efficient than the municipal process. A committee comprised of Municipal Court Judge Gonzales, the Greeley City Attorney's Office, and representatives of the Greeley Police Department reviewed and modified the language in the ordinance to correct the shortcomings of the previous ordinance and align the new ordinance with current industry best practices. The entire ordinance was reviewed and the necessary modifications were approved by the committee to ensure consistency and accuracy. The revised ordinance incorporates current standards as outlined by the American Animal Hospital Association (AAHA) and the State of Colorado Department of Public Health and Environment (CDPHE) related to vaccinations, rabies control, and quarantine. It also includes provisions to protect the property interest and due process of violators.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
If yes, what is the initial, or, onetime impact?	
What is the annual impact?	
What fund of the City will provide Funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

Legal Issues:
This rewritten ordinance includes provisions to protect the property interest and due process of violators.

Consideration of this matter is a legislative process.

Other Issues and Considerations:
None.

Applicable Council Priority and Goal:
Safety: Manage the health, safety and welfare in a way that promotes a sense of security and well-being for residents, businesses and visitors.

Decision Options:
1) Introduce the ordinance as presented; or
2) Amend the ordinance and introduce as amended; or
3) Deny the ordinance; or
4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:
A motion to introduce the ordinance and schedule the public hearing and final reading for August 6, 2019.

Attachments:
Ordinance
Exhibit A
Exhibit B - Title 7 – as currently in the Greeley Municipal Code

CITY OF GREELEY, COLORADO

ORDINANCE NO. ______, 2019

AN ORDINANCE REPEALING TITLE 7, ANIMALS, OF THE GREELEY MUNICIPAL CODE AND REPLACING IT WITH A NEW TITLE 7, ANIMALS

WHEREAS, it becomes necessary to update the Greeley Municipal Code from time to time to continue to improve functionality and align with public values and Council priorities; and

WHEREAS, a large number of changes to Title 7 are necessary to offer clarity in comprehension and improve enforcement significantly; and

WHEREAS, after review of these changes, Council believes that it is in the best interests of the citizens of the City of Greeley to repeal Title 7 in its entirety and replace it with a new Title 7.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL FOR THE CITY OF GREELEY, COLORADO, AS FOLLOWS:

Section 1. Title 7 is hereby repealed in its entirety and replaced with Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. This Ordinance shall become effective five days following its final publication, as provided in Section 3-16 of the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS ______ DAY OF _____________, 2019.

ATTEST: CITY OF GREELEY, COLORADO

_____________________________ _____________________________

City Clerk Mayor

EXHIBIT A
Proposed TITLE 7 Animals

TITLE 7

Animals

Chapter 7.04

Definitions

7.04.010 - Applicability.

As used in this Title, the following words have the meanings ascribed to them in this Chapter.

7.04.020 – Animal.

Animal means any vertebrate creature that has been bred or raised to live with or near humans and is dependent on humans for food, water and shelter. *Animal* includes pets and livestock. *Animal* does not include fowl, service animals, wild animals and wild birds, all of which are separately defined herein. *Animal* does not include human beings.

7.04.030 – Animal control officer.

Animal control officer means any person who is employed by the City and authorized by the Chief of Police to administer and enforce this Title. Any officer of the Greeley Police Department can act as an animal control officer.

7.04.040 – Animal establishment.

Animal establishment means any premises, including kennels and stables, used in whole or in part for the keeping of animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading or otherwise transferring animals. *Animal establishment* does not mean veterinary facilities, licensed research facilities or facilities operated by government agencies, including an animal shelter or impound agency.

7.04.050 – Animal shelter.

Animal shelter means a premises operated by the City or another entity, including the Humane Society of Weld County, for the purpose of housing and caring for animals held under the authority of the laws, regulations or ordinances of the City. An animal shelter may also be an impound agency.

7.04.060 – Dangerous animal.

Dangerous animal means an animal that has attacked or bitten a person, attacked or bitten another animal and thereby killed or caused bodily injury, chased a person on property not the premises of the owner or keeper such that the person is reasonably in fear of attack, or acted in a manner that causes or should cause the owner or keeper to know that the animal may be dangerous. *Dangerous animal* does not mean an animal that merely growls, snarls or bares its teeth and has not attacked, bitten or chased.

7.04.070 – Days.

Days means calendar days, including Saturdays, Sundays and legal holidays. In computing any period of time prescribed or allowed by this Title, the day of the event from which the period of time begins to run is not included. The last day of the computed period is included, unless it is a Saturday, Sunday or legal holiday, in which case the last day is the next day which is not a Saturday, Sunday or legal holiday.

7.04.080 – Disposition or disposal.

Disposition or *disposal* means adoption, donation, release of an animal to a rehabilitator licensed by the Colorado Division of Wildlife or the United States Fish and Wildlife Service or humane destruction.

7.04.090 – Finding of violation.

Finding of violation means a determination by the Municipal Court or entry of a stipulation that a violation of this Title has been committed.

7.04.100 – Fowl.

Fowl means any bird not kept as a pet, but customarily used in the market or household for food consumption, such as a chicken, duck, goose and turkey, and includes wild birds such as guinea fowl and pheasants.

7.04.110 – Guard dog.

Guard dog means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

7.04.120 – Impound agency.

Impound agency means a premises operated by the City or another entity, including the Humane Society of Weld County, and designated for the confinement of animals taken into custody under this Title. An impound agency may also be an animal shelter.

7.04.130 – Keeper.

Keeper means a person, within the City, who has custody of or exercises control over an animal, the occupant of the premises where the animal is usually kept or a person who, for a period of at least five (5) consecutive days, possesses, harbors or allows an animal to remain about the person's premises.

7.04.140 – Owner.

Owner means a person, within the City, who owns an animal or who is named on the licensing records of an animal as the owner.

7.04.150 – Premises.

Premises means real property owned, rented, leased, used, kept or occupied by a person. *Premises* does not include common areas of multiple household dwelling units.

7.04.160 – Restrained.

Restrained means physically controlled by use of a leash, rope, chain or cable not more than six (6) feet in length held by a person of sufficient size and physical ability to restrict the animal's movement, properly tethering the animal or keeping it within an enclosure restricting the animal to a particular premises.

7.04.170 – Service animal.

Service animal means a dog or miniature horse that has been trained to do work or perform tasks for an individual with a disability. The tasks performed by the service animal must be directly related to the person's disability. Animals that provide emotional support, therapy or comfort or are pets are not considered service animals.

7.04.180 – Sufficient food.

Sufficient food means a quantity of food sufficient to maintain an adequate level of nutrition for the animal's age, size, physical condition, health condition, species and breed, provided at least once every twenty-four (24) hours from a clean receptacle.

7.04.190 – Sufficient water.

Sufficient water means clean, fresh, potable water adequate for the animal's age, size, physical condition, health condition, species and breed, accessible to the animal at all times.

7.04.200 – Wild animal.

Wild animal means prosimians or other nonhuman primates; venomous or poisonous snakes or venomous or poisonous reptiles; felids (including but not limited to jaguars, cheetahs, mountain lions, wildcats, panthers, margays or any other species of cat other than ordinarily domesticated house cats); ursids (including but not limited to bears); wild birds as defined herein; nonpoisonous snakes longer than six (6) feet; reptiles (other than snakes) longer than one (1) foot; mustelids (including but not limited to badgers, prairie dogs, skunks, beavers and muskrats); bats; procyonides (including but not limited to raccoons and coatis); elephants; marine mammals (including but not limited to seals, sea lions, dolphins and sea otters); hyenas; edentates (including but not limited to anteaters, sloths and armadillos); viverrids (including but not limited to mongooses, civets and genets); marsupials; undomesticated ungulates (including but not limited to deer, hippopotamuses, rhinoceroses, giraffes, camels and zebras); crocodilians (including but not limited to alligators and crocodiles); or canids (including but not limited to wolves, coyotes, foxes or other species of canine other than ordinarily domesticated dogs). For purposes of this Title, an animal in use for bona fide scientific research by a university or college shall not be treated as a wild animal.

7.04.210 – Wild bird.

Wild bird means a bird of prey, a game bird (excluding fowl) or any other undomesticated bird not customarily kept as a pet. For purposes of this Title, neither the house sparrow nor the European starling shall be treated as a wild bird.

Chapter 7.06

Administration

7.06.010 – Purpose.

The City Council finds and declares that the purpose of this Title is to establish the regulations and expectations regarding animals in order to protect the public health, safety and welfare of persons in the City by prescribing the conditions under which animals can be kept and treated, restricting the types of animals that can be kept, requiring licensing and rabies vaccination, setting limits on the activities of animals, and preventing damage to people or property.

7.06.020 – Authority of animal control officers.

(a) An animal control officer shall have the authority to enforce the provisions of this Title and to make all determinations required by the provisions of this Title within the officer's discretion, including the power to issue a summons, complaint and penalty assessment to any person the officer reasonably believes to have violated this Title.

(b) An animal control officer may issue to a person the officer reasonably believes to have violated this Title a summons, complaint and penalty assessment that may be voided by the officer prior to filing with the Municipal Court upon satisfactory proof being presented to the officer that the person cited has come into compliance with the requirements of this Title.

(c) When an animal control officer reasonably believes that a violation of this Title has occurred that may compromise the public health, safety and welfare of persons in the City or endanger the life of an animal, the officer may impound the animal prior to a finding of violation.

(d) An animal control officer has the authority to enter a premises (excluding a dwelling or other enclosed building) or vehicle to enforce the provisions of or perform a duty imposed by this Title, if:

   (1) The officer has obtained consent of the person in possession of the premises or vehicle;

   (2) The officer has obtained a warrant pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure;

   (3) The officer is in pursuit of an animal that is or has been running at large;

   (4) The officer is in pursuit of an animal the officer has reasonable cause to believe has bitten a human being;

   (5) The officer is performing a rabies quarantine compliance inspection; or

   (6) The officer reasonably believes that the life of an animal is endangered.

7.06.030 – Interference or failure to obey.

(a) Interfering with or failing to obey a lawful order of an animal control officer who is performing the officer's duties pursuant to this Title, this Code or state or federal law is prohibited.

(b) Any finding of violation of this Section shall be deemed a misdemeanor offense punishable pursuant to Chapter 1.32 of this Code.

7.06.040 – Liability.

No person shall have any cause of action, civil or criminal, against the City or its authorized personnel, including animal control officers, resulting from enforcement of this Title, including forcing entry into a locked vehicle to render emergency assistance to an animal pursuant to Section 13-21-108.4, C.R.S., confiscation and destruction of a trap or impoundment of an animal.

Chapter 7.08

Violations

7.08.010 – Violations.

(a) Conduct prohibited by this Title shall be punishable as a misdemeanor infraction or a misdemeanor offense, as designated in each Section, pursuant to Chapters 1.32 and 1.33 of this Code.

(b) A finding of violation punishable as a misdemeanor offense may also result in impoundment or a judicial order prohibiting the owning or keeping of any animal.

(c) A finding of violation for which there is a determination of injury or damage may also result in a judicial order for restitution.

7.08.020 – Mistreatment.

(a) Mistreatment of an animal by a person is prohibited. The following conduct constitutes mistreatment:

(1) Failing to provide or depriving the animal of:

a. Sufficient food and sufficient water; or

b. Proper veterinary care consistent with the species, type of animal and acceptable agricultural animal husbandry practices.

(2) Overdriving, overloading, overworking, tormenting, torturing, beating, mutilating or killing an animal.

(b) Any finding of violation of this Section shall be punishable as a misdemeanor offense. Mistreated animals are subject to impoundment prior to a finding of violation.

7.08.030 – Failing to provide adequate shelter and containment.

(a) Failing to provide adequate shelter and containment for an animal is prohibited.

(1) To be adequate, a shelter must include:

a. A roof, at least three (3) enclosed sides, a doorway and a solid and level floor;

b. Dry bedding in sufficient quantity for insulation against cold and damp conditions; and

c. Protection from weather and environmental conditions, including cold, heat, sun exposure, wind and precipitation.

(2) To be adequate, containment must include enough space to meet the physical condition and exercise requirements of the species, type of animal and accepted agricultural animal husbandry practices, and be suitable to prevent the animal from escaping.

(3) Adequate containment may consist of tethering the animal on the owner or keeper's premises by means of a trolley system or attached to a pulley on a cable run, or by using a stake in the ground that is attached to a freely rotating ring device. However, tethering an animal so as to create a danger to the well-being of the animal is prohibited. Danger to the well-being of the animal is created when:

a. The animal is tethered in excess of ten (10) consecutive hours in a twenty-four-hour period;

b. The animal is tethered in a manner that is reasonably likely to become entangled with objects or other animals so as to cause injury to the animal;

c. The tether is not attached to a properly fitted collar or harness worn by the animal or is attached to a choke or pinch collar worn by the animal, choke and pinch collars being prohibited for the purposes of tethering;

d. There is no swivel attached to both ends of the tether to minimize tangling;

c. The tether weighs more than one-eighth (1/8) of the animal's body weight;

e. The trolley system or cable run is less than ten (10) feet in length and mounted less than four (4) feet and more than seven (7) feet above ground level; or

f. The animal is not provided with a sufficient area to exercise and does not have access to adequate shelter, sufficient food and sufficient water.

(4) To be adequate, the shelter and containment must be clean and free of filth, including feces.

(b) A first finding of violation this Section shall be punishable as a misdemeanor infraction. A subsequent finding of violation within one (1) calendar year of a first finding shall be punishable as a misdemeanor offense. Animals without adequate shelter and containment are subject to impoundment prior to a finding of violation.

7.08.040 – Abandonment.

(a) Abandonment of an animal is prohibited. An animal is abandoned if:

(1) It is left on the premises of the owner or keeper unattended and without adequate provision for its care for more than forty-eight (48) consecutive hours.

(2) It is physically fastened to a stationary object not located on the premises of the owner or keeper if the owner or keeper is not located within fifteen (15) feet of the animal.

(b) A first finding of violation of this Section shall be punishable as a misdemeanor infraction. A subsequent finding of violation within one (1) calendar year of a first finding shall be punishable as a misdemeanor offense. Abandoned animals are subject to impoundment prior to a finding of violation.

7.08.050 – Animal at large.

(a) It is prohibited for an owner or keeper to allow an animal to be at large. An animal is at large when it is off the premises of the owner or keeper and not restrained.

(b) A first finding of violation of this Section shall be punishable as a misdemeanor infraction. A subsequent finding of violation within one (1) calendar year of a first finding shall be punishable as a misdemeanor offense. An animal at large is subject to impoundment prior to a finding of violation.

7.08.060 – Noise.

(a) Unless mitigating circumstances exist, an owner or keeper of an animal is prohibited from allowing an animal to make a loud, persistent or continuous noise, including barking, whining, howling, squawking or yelping, when the noise is plainly audible beyond the premises on which the animal is owned or kept for a consecutive period in excess of ten (10) minutes during the day (7:00 a.m. to 9:00 p.m.) or for a consecutive period in excess of five (5) minutes during the night (9:01 p.m. to 6:59 a.m.) and/or a cumulative period in excess of ninety (90) minutes during any twenty-four-hour period.

(b) Any finding of violation of this Section shall be a misdemeanor infraction.

7.08.070 – Dangerous animal.

The owning or keeping of a dangerous animal, except as provided in Chapter 7.22 of this Title, is prohibited. Any finding of a violation of this Section shall be a misdemeanor offense. A dangerous animal is subject to impoundment prior to a finding of violation.

(1) It is a defense to a violation of owning or keeping a dangerous animal that the animal attacked, bit or chased a person because that person was:

a. Attacking the animal or engaging in conduct reasonably calculated to provoke an animal to attack, bite or chase;

b. Engaged in unlawfully entering an enclosed portion of the premises upon which the animal was lawfully kept;

c. Engaged in unlawfully entering a vehicle in which the animal was confined;

d. Attempting to injure another person, including the owner or keeper;

e. Attempting to stop a fight between the animal and another animal;

f. Attempting to aid the animal when the animal was injured; or

g. Attempting to capture the animal in the absence of the owner or keeper, with the exception of an animal control officer or other law enforcement agent.

(2) It is a defense to a violation of owning or keeping a dangerous animal that the animal attacked, bit or chased another animal because it was:

a. Defending itself;

b. Defending its young; or

c. Defending a person, including the owner or keeper.

7.08.080 – Animal fighting.

Sponsoring, arranging, holding, encouraging, instigating or permitting a fight between animals, or between animals and humans, for the purpose of monetary gain or entertainment is prohibited. Any finding of violation of this Section shall be a misdemeanor offense. Animals used in animal fighting are subject to impoundment prior to a finding of violation.

7.08.090 – Poison exposure.

No person may knowingly expose an animal to any known poisonous substance. Any finding of violation of this Section shall be a misdemeanor offense.

7.08.100 – Trap setting.

(a) Setting a steel-jaw trap or any other type of trap that is designed to kill, injure or maim an animal is prohibited. Any finding of violation of this Section shall be a misdemeanor offense.

(b) In addition to the penalty set out above, unlawfully set traps may be confiscated and destroyed by authorized personnel.

7.08.110 – Wild birds.

(a) Except pursuant to a revocable hunting permit issued pursuant to Chapter 7.30 of this Title, frightening, shooting at, wounding, killing, capturing, ensnaring, trapping, netting, poisoning or otherwise disturbing a wild bird or its nest, eggs or young is prohibited. Any finding of violation of this Section shall be a misdemeanor infraction.

(b) The entire area within the corporate limits of the City is a bird sanctuary for the refuge of all wild birds, and all persons within the City are urged to protect wild birds and encourage their propagation and refuge within the sanctuary.

7.08.120 – Food or beverage premises.

It is prohibited for an owner or keeper to allow an animal upon premises open to the public where food or beverages are prepared, stored or sold. This Section does not apply to service animals or animals assisting law enforcement. Any finding of violation of this Section shall be a misdemeanor infraction.

7.08.130 – Damage to property.

It is prohibited for an owner or keeper to allow an animal to damage the property of another, including public property. Any finding of violation of this Section shall be a misdemeanor infraction.

7.08.140 – Animal waste removal.

The owner or keeper of an animal shall immediately remove any feces deposited by the animal upon the property of another, including public property and common areas. Any finding of violation of the Section shall be a misdemeanor infraction.

7.08.150 – City parks or recreational areas.

(a) No person may take an animal into a City park or recreational area in which notices excluding animals have been posted by the City. Where animals are not excluded, the animal shall be restrained and allowed only on a public walkway adjacent to the park or recreational area.

(b) This Section does not apply to service animals or animals assisting law enforcement.

(c) Any finding of violation of this Section shall be a misdemeanor infraction.

7.08.160 – Confining in a vehicle.

(a) An owner or keeper of an animal is prohibited from confining the animal inside a vehicle located on a street or in a parking lot for more than thirty (30) minutes. However, confining an animal inside a vehicle located on a street or in a parking lot for any period of time so as to create a danger to the well-being of the animal is prohibited. Danger to the well-being of the animal is created when:

  (1) The outdoor temperature is more than ninety (90) degrees Fahrenheit;

  (2) The animal does not have access to sufficient water;

  (3) The animal is tied within the vehicle in a manner which does not allow the animal to seek shelter from direct sunlight; and

  (4) Cross-ventilation has not been provided by lowering at least two (2) windows on either side of the vehicle by at least two (2) inches.

(b) An owner or keeper is prohibited from confining an animal in the bed of a truck located on a street or in a parking lot for any period of time so as to create a danger to the well-being of the animal as described in Paragraphs (a)(1) through (3) above.

(c) Any finding of a violation of this Section shall be a misdemeanor offense. A confined animal is subject to impoundment prior to a finding of violation. The animal control officer has the authority to enter a vehicle or truck bed, including forcing entry into a locked vehicle to render emergency assistance to or remove an animal to protect its well-being, pursuant to this Section and state law.

Chapter 7.15

Impoundment

7.15.010 – Animals subject to impoundment.

(a) An animal owned or kept by a person with a finding of violation of a Section of this Title punishable as a misdemeanor offense may be taken into custody by an impound agency in the discretion of the Municipal Court.

(b) An animal may be impounded before a finding of violation when:

(1) An animal is at large;

(2) An animal control officer reasonably believes that the animal may compromise the public health, safety and welfare of persons in the City;

(3) An animal control officer reasonably believes the life of the animal is endangered; or

(4) The owner or keeper of the animal has been issued a summons, complaint or penalty assessment for an alleged violation of Section 7.08.070 (Dangerous animal) or Chapter 7.16 (Rabies Control), 7.22 (Guard Dogs) or 7.28 (Wild Animals) of this Title.

(c) It is a violation of Section 7.06.030 of this Title for the owner or keeper of an animal subject to impoundment to fail to produce the animal on demand of an animal control officer. Any finding of violation of this Section shall be deemed a misdemeanor offense punishable pursuant to Chapter 1.32 of this Code.

(d) In all cases involving impoundment, a due process hearing will be conducted by the Municipal Court.

7.15.020 – Notice of impoundment and administrative due process impoundment hearing.

If the owner or keeper of the animal can be identified, then within twelve (12) hours of impounding an animal, the owner or keeper shall be notified of the impoundment and right to a hearing by a notice delivered to the owner or keeper by telephone, electronic mail or written notice posted at a conspicuous place upon the owner's or keeper's premises.

7.15.030 – Due process hearing.

(a) No more than three (3) days after impoundment, an administrative due process impoundment hearing will be set and the owner or keeper of the animal will be summoned to appear before the Municipal Court on the next available court date following impoundment.

(b) The hearing shall be conducted as an administrative hearing, pursuant to the procedures outlined in Chapter 2.09 of this Code.

(c) At the hearing, the Court shall consider the following:

(1) The conduct of the animal during the incident charged;

(2) Evidence of aggressive or violent behavior by the animal;

(3) Prior violations by the owner or keeper of this Title, this Code or the laws of any state or its political subdivisions involving an animal;

(4) Prior violations, involving the same animal, of this Title, this Code or the laws of any state or its political subdivisions;

(5) Conditions existing on the premises where the animal has been or will be kept that increase the likelihood of any danger to any person or animal;

(6) Evidence of mitigating action taken by the owner or keeper of the animal that decreases the likelihood of any danger to any person or animal; and

(7) Evidence relevant to the justification or lack of justification for impoundment as determined by the Court.

(d) No evidence presented to the Court in connection with the administrative due process impoundment hearing shall be used in the prosecution of alleged violations of this Title.

(e) At the hearing, the Court shall determine whether, by a preponderance of the evidence, there was justification for the impoundment. The determination shall have no effect upon the validity of the summons, complaint and penalty assessment, and the owner or keeper may still be found, at trial, to have violated this Title.

(f) If the Court finds, by a preponderance of the evidence, that the impoundment was justified:

(1) Except when its owner or keeper is subject to prosecution for alleged violations specified in Section 7.15.010(b)(4) above, the animal may be released to the owner or keeper if, within ten (10) days of the hearing date, the owner or keeper deposits with the Court as security the fair, reasonable and necessary costs of care as determined by the Court. If the Court determines, based upon a credible showing, that the owner or keeper is indigent, the Court may reduce or eliminate the deposit payment requirement; or

(2) If the owner or keeper is not indigent but elects not to deposit security to pay the costs of care during the impoundment, the Court shall determine that ownership of the animal has been relinquished and release the animal to the impound agency for disposition; and

(3) The Court may order an animal to remain impounded until after the alleged violation has been adjudicated. If a finding of violation results, the animal shall not be released to the owner or keeper.

(g) If the Court finds, by a preponderance of the evidence, that the impoundment was not justified:

(1) The animal shall be released to the owner or keeper. No deposit payment shall be required, but a dog or cat released to a person residing in the City must become licensed pursuant to Chapter 7.20 of this Title within fifteen (15) days of the release; and

(2) If an animal is not reclaimed within five (5) days after being eligible for release from impoundment, the Court shall determine that ownership of the animal has been relinquished and release the animal to the impound agency for disposition.

(h) If the owner or keeper does not appear at the hearing, the Court shall find, without the necessity of conducting the hearing, that the impoundment was justified and order the owner or keeper to deposit with the Court as security the fair, reasonable and necessary costs of care as determined by the Court within ten (10) days of the hearing date.

7.15.040 – Costs of care during impoundment.

(a) Because payment of the costs of care is a reimbursement to the impound agency for actual funds expended, unless a determination of indigency has been made pursuant to Section 7.15.030(f)(1), the owner or keeper of an impounded animal shall be liable for the reasonable costs of care during the impoundment, including veterinary costs, even if the Municipal Court has determined that ownership of the animal has been relinquished and the animal has been released to the impound agency for disposition.

(b) The owner or keeper of an impounded animal shall not be liable for the reasonable costs of care during the impoundment if:

(1) The Court determines at the administrative due process impoundment hearing that the impoundment was unjustified; or

(2) The owner or keeper is not convicted of any violation of this Title.

7.15.050 – Humane destruction.

Notwithstanding the time periods provided in this Chapter, if, in the judgment of the impound agency, an animal is injured, disabled or diseased beyond recovery, or pursuant to Court order, the animal may be humanely destroyed. The humane destruction of the animal shall not relieve the owner or keeper of the obligation to pay the fair, reasonable and necessary costs of care.

Chapter 7.16

Rabies Control

7.16.010 – Rabies vaccination.

A dog or cat over the age of six (6) months shall be vaccinated against rabies by a licensed veterinarian, and the owner shall obtain from the veterinarian a rabies vaccination certificate and rabies tag.

7.16.020 – Wearing rabies tags.

A dog or cat shall display the rabies tag issued according to this Chapter at all times when it is off the premises of the owner or keeper.

7.16.030 – Reporting bites.

A person having knowledge that an animal has bitten a human being shall immediately report the bite to an animal control officer and provide any further information requested by the officer.

7.16.040 – Reporting rabies cases.

A person suspecting that an animal has rabies or has been exposed to rabies, or having knowledge of a positively diagnosed occurrence of rabies, shall immediately report the information to an animal control officer and provide any further information requested by the officer.

7.16.050 – Quarantine.

(a) An animal required to have a rabies vaccination certificate and rabies tag that bites a human being or is suspected of having been exposed to rabies shall be quarantined for an observation period of at least ten (10) days unless otherwise required by the current Compendium of Animal Rabies Prevention and Control published yearly by the National Association of State Public Health Veterinarians.

  (1) The animal shall be quarantined at the premises of the owner or a veterinary hospital of the owner's choice; or

  (2) If the owner refuses to quarantine or cannot be immediately identified, the animal shall be quarantined, at the expense of the owner, at the animal shelter.

(b) An animal quarantined because of a bite or suspicion of rabies exposure by the animal shelter shall not be released until the quarantine period is over, unless the owner or keeper shows proof that the animal was vaccinated against rabies at the time of the bite or exposure and pays the costs of care during quarantine, including veterinary costs.

(c) Failure to quarantine is a violation of this Title. The owner shall consent to the entry of the premises in which an animal is being quarantined by the Chief of Police, for the purpose of ascertaining whether the provisions of this Chapter have been and are being complied with. A finding of violation shall be deemed a misdemeanor offense punishable pursuant to Chapter 1.32 of this Code. In addition, an animal required to be quarantined but is not quarantined is subject to impoundment prior to a finding of violation.

(d) If a dog or cat is released from quarantine to a person residing in the City, the dog or cat must become licensed pursuant to this Title within fifteen (15) days after the release. Failure to obtain a license within fifteen)15 days after release from quarantine shall be deemed a misdemeanor offense.

7.16.060 – Killing suspected or confirmed rabid animals.

No person shall kill any suspected or confirmed rabid animal without the prior written approval of an animal control officer, except in defense of a human being or another animal, or to prevent the escape of such suspected or confirmed rabid animal. This Section does not apply to state or county health officials.

7.16.070 – Approval required for body removal.

No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found without the prior written approval of an animal control officer. This Section does not apply to state or county health officials.

7.16.080 – Destruction of rabid animals.

If rabies has been detected by a veterinarian or medical doctor in any animal, the animal shall be humanely destroyed.

7.16.090 – City-wide quarantine by Chief of Police.

When there has been a positive diagnosis of rabies within the City, as determined by the Weld County Health Department, the Chief of Police may declare a City-wide quarantine for a reasonable period of time not to exceed six (6) months. During the period of such quarantine, an owner or keeper of any animal shall confine the animal within the premises of the owner and shall not transport, take or remove the animal from the City without the prior written approval of an animal control officer.

Chapter 7.20

Licenses

7.20.010 – License tag required.

The owner or keeper of a dog or cat over the age of six (6) months owned or kept within the City shall obtain a license tag for such dog or cat in the manner specified in this Chapter.

7.20.020 – License tag application.

(a) An owner or keeper shall apply for a dog or cat license tag at the Finance Department or at such other location as contracted for by the City within fourteen (14) days of acquiring possession of the dog or cat. The application shall be upon a form provided by the City and shall contain at least the following information:

(1) The name, address and telephone number of the owner;

(2) The call name, breed, color and sex of the animal;

(3) Proof of current rabies vaccination; and

(4) Documentation of animal neutering, if applicable.

(b) The owner or keeper shall not knowingly make any material misrepresentation on the license application.

(c) Upon acceptance of the completed license application and after payment of the license fee, the staff of the Finance Department or such other person as contracted for by the City shall issue a durable tag stamped with an identifying number and year of expiration.

7.20.030 – Application fee.

The application fee and duration of the license tag shall be set in writing annually by the City Manager as provided in Section 1.05.010 of this Code.

7.20.040 – Wearing license tags required.

Dogs and cats shall display the license tag issued pursuant to this Chapter at all times while outside of the premises of the owner or keeper.

7.20.050 – Use by other than licensed animal prohibited.

No person shall use or permit the use of a license tag for an animal other than the animal for which such tag was issued.

7.20.060 – Replacement tag.

A duplicate replacement tag may be obtained upon payment of a fee, which amount shall be set in writing annually by the City Manager.

7.20.070 – Record of tags issued.

The Finance Department shall maintain a record of all tags issued according to this Chapter, and that record may be inspected by the public in accordance with the Colorado Open Records Act. Tags issued by an entity contracted for by the City shall be periodically reported to the Finance Department, and that record may be inspected by the public in accordance with the Colorado Open Records Act.

7.20.080 – Exceptions to requirements.

(a) Service animals and animals assisting law enforcement are excepted from the licensing requirements of this Chapter. Any owner or keeper claiming these exceptions has the burden of proving to the satisfaction of the City that he or she is entitled to such exception.

(b) Animal establishments licensed pursuant to Chapter 7.24 of this Title are excepted from the license tag requirements of this Chapter.

7.20.090 – Violations.

Any finding of violation of this Chapter shall be deemed a misdemeanor infraction punishable pursuant to Chapters 1.32 and 1.33 of this Code.

Chapter 7.22

Guard Dogs

7.22.010 – Permit required.

An owner or keeper of a guard dog shall obtain a permit, in the manner specified in this Chapter, for each premises where a guard dog is proposed to be used.

7.22.020 – Permit application.

(a) An owner or keeper of a guard dog shall apply for a permit to the Chief of Police. The application shall be upon a form provided by the Chief of Police and shall contain at least the following information:

(1) The name, address and telephone number of the owner;

(2) The name, address and telephone number of the person who is the handler of the guard dog;

(3) Proof of current rabies vaccination;

(4) The address of the premises where the guard dog is proposed to be used; and

(5) Proof of the following insurance:

a. A policy, issued by a company authorized to do business in Colorado, insuring the applicant/permittee and the City and its authorized personnel, and protecting, defending and holding harmless the City and its authorized personnel from and against claims, suits and demands, whether frivolous or otherwise, caused by or arising out of injury, death or property damage to third persons caused by the permittee’s guard dog.

b. The insurance policy shall provide for coverage in the minimum amount of one million dollars ($1,000,000.00) for injury to or death of any person, three million dollars ($3,000,000.00) for injuries or deaths in any one (1) occurrence or incident, and third-person property damage in the amount of five thousand dollars ($5,000.00).

c. The insurance policy shall provide that thirty (30) days’ advance notice of any cancellation shall be given by the insurance company, in writing, to the City Clerk and the Chief of Police.

(b) The applicant shall not knowingly make any material misrepresentation on the permit application.

(c) Upon acceptance of the completed permit application, the Chief of Police may issue the permit, and a copy of the permittee’s insurance policy shall be filed with the City Clerk. The permit may include any additional reasonable conditions which are deemed necessary to protect the public safety. The additional conditions may include:

(1) Anti-escape devices in addition to the fence required by this Chapter; and

(2) Sight barriers.

7.22.030 – Application fee.

The application fee and duration of the permit shall be set in writing annually by the City Manager as provided in Section 1.05.010 of this Code.

7.22.040 – Premises requirements.

A guard dog may not be used or located at a premises unless all of the following have been met:

(1) All gates and entrances to the area where the guard dog is housed, used, located or trained shall be kept closed and locked when not in use.

(2) Where guard dogs are to be used or located outside of buildings, the area guarded must be enclosed by at least a ten-foot-high chain-link fence.

(3) The posting of signs reading "DANGER! GUARD DOG!" printed with letters not less than two (2) inches high shall be posted not more than one hundred (100) feet apart along the perimeter of the premises, and shall be posted at all premises corners and at every entrance into the building yard. The Chief of Police may also require such signs to be illuminated to the degree deemed necessary to ensure that they are readily visible and readable at night.

7.22.050 – Vehicle requirements.

Vehicles used in transporting guard dogs shall be modified and screened to protect the public from accidental contact with the guard dog.

7.22.060 – Inspection authority of police.

The permittee shall consent to the entry of the premises in which guard dogs are used or located by the Chief of Police, for the purpose of ascertaining whether the provisions of this Chapter have been and are being complied with.

7.22.070 – Transfer of permit location.

An unexpired permit may be transferred to a new premises operated by the same permittee; provided, however, that no such transfer is allowed until the Chief of Police has inspected and approved the facilities at the new premises.

7.22.080 – Animals assisting law enforcement.

This Chapter does not apply to animals assisting law enforcement.

7.22.090 – Violations.

A finding of violation of any of the provisions of this Chapter shall be deemed a misdemeanor offense punishable pursuant to Chapter 1.32 of this Code and may include revocation of the permit. In addition, an unpermitted guard dog is subject to impoundment prior to a finding of violation.

Chapter 7.24

Animal Establishments

7.24.010 – Animal establishments.

No person shall own or operate an animal establishment without having first obtained land use approval pursuant to Section 18.46.065 of this Code.

7.24.020 – State license required.

No person shall own or operate an animal establishment without a valid pet animal facility license issued by the Commissioner of the Colorado Department of Agriculture pursuant to Sections 35-80-101 through 117, C.R.S., entitled "Pet Animal Care and Facilities Act," with all subsequent amendments or supplements thereto.

7.24.030 – Violations.

A finding of violation of this Chapter shall be deemed a misdemeanor infraction punishable pursuant to Chapters 1.32 and 1.33 of this Code and be reported to the Commissioner of the Colorado Department of Agriculture. In addition, a finding of violation may result in revocation of the animal establishment's land use approval.

Chapter 7.28

Wild Animals

7.28.010 – Keeping wild animals.

No person may keep a wild animal or wild bird unless such person has the permit or license described in Section 7.28.020 below. Any finding of violation of the Section shall be a misdemeanor offense, and the wild animal or wild bird is subject to impoundment prior to a finding of violation. This Chapter does not apply to displays or exhibitions regulated elsewhere by state, county or federal law, including but not limited to zoological parks, performing animal exhibitions or circuses.

7.28.020 – Permit or license required for wild animals and wild birds.

No person shall keep or allow to be kept a wild animal or wild bird unless such person has received, from the Colorado Division of Wildlife or a corresponding department or federal agency, a permit or license therefor.

7.28.030 – Authority of animal control officers.

An animal control officer has the authority to:

(1) Impound a wild animal or wild bird kept in violation of this Title;

(2) Act as a “peace officer” as that term is defined in Section 33-1-102(32), C.R.S., with all subsequent amendments or supplements thereto; and

(3) Take reasonable steps to ensure compliance with the requirements of the federal Animal Welfare Act set forth under the Regulations and Standards in Title 9, Code of Federal Regulations (CFR), Chapter 1, Subchapter A - Animal Welfare.

Chapter 7.29

Shipping of Live Fowl

7.29.010 – Height of shipping and receiving containers.

Crates or cages in which live fowl are transported shall be sufficiently high so that birds confined therein can stand erect and hold their heads upright without touching the top.

7.29.020 – Construction of containers.

Crates and cages in which live fowl are transported shall be made of open slats or wire on at least three (3) sides.

7.29.030 – Conditions in containers.

Crates or cages in which live fowl are transported shall be kept clean and have troughs or other receptacles in which sufficient food and sufficient water are constantly available and easily accessible by the birds. The fowl shall not be overcrowded and shall not be exposed to undue temperature extremes.

7.29.040 – Removal of dead, injured or diseased fowl required.

Dead, injured or diseased fowl shall be at once removed from containers.

7.29.050 – Transfer after receiving required.

If live fowl are received for sale or storage, they shall immediately be transferred to such crates or cages as are described in this Chapter.

7.29.060 – Violations.

A finding of violation of this Chapter shall be deemed a misdemeanor infraction punishable pursuant to Chapters 1.32 and 1.33 of the Code.

Chapter 7.30

Hunting

7.30.010 – Hunting not allowed.

Hunting without first obtaining a revocable permit issued by the City Manager shall not be allowed within the City. Any finding of violation of this Chapter shall be deemed a misdemeanor offense punishable pursuant to Chapter 1.32 of this Code.

Title 7 - Animals
Chapter 7.04 - Definitions
7.04.010 - Applicability.

As used in this Title, the following words have the meanings ascribed to them in this Chapter.

(Ord. 52, 1985 §1(part))

7.04.013 - Adequate food.

Adequate food means the provision at suitable intervals, at least once every twenty-four (24) hours, of a quantity of wholesome foodstuff suitable for the animal's age, size, physical condition, species and breed, sufficient to maintain an adequate level of nutrition in the animal, such foodstuff to be served in a clean receptacle, dish or container.

(Ord. 8, 2006 §1)

7.04.014 - Adequate water.

Adequate water means the access at all times to an adequate supply of clean, fresh, potable water consistent with the normal requirements of the animal's age, size, physical condition, species and breed.

(Ord. 8, 2006 §1)

7.04.015 - Adequate shelter.

Adequate shelter means an enclosure available for use by an animal so that, when factors related to the age, size, physical condition, medical condition, species and breed are considered, the animal's well-being is not endangered by weather or environmental conditions.

(Ord. 8, 2006 §1)

7.04.020 - Animal.

Animal means any live vertebrate creature, domestic or wild, except human beings.

(Ord. 52, 1985 §1(part))

7.04.030 - Animal control officer.

Animal control officer means any person who is employed by the City and authorized by the Chief of Police to administer and enforce this Title.

(Ord. 52, 1985 §1(part))

7.04.040 - Animal establishment.

Animal establishment means any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition or kennel. This term shall not include veterinary medical facilities, licensed research facilities or facilities operated by government agencies.

(Ord. 52, 1985 §1(part))

7.04.050 - Animal shelter.

Animal shelter means a facility operated by the City or by a humane society pursuant to contract with the City, for the purpose of impounding and caring for animals.

(Ord. 52, 1985 §1(part))

7.04.055 - Animal show.

Animal show means a competitive exhibition of an animal.

(Ord. 8, 2006 §1)

7.04.060 - At large.

At large means off the property of the owner and not under restraint.

(Ord. 52, 1985 §1(part))

7.04.070 - Bodily injury.

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

(Ord. 52, 1985 §1(part))

7.04.080 - Circus.

Circus means a commercial variety show featuring animal acts for public entertainment.

(Ord. 52, 1985 §19(part))

7.04.090 - Control.

Control means physical restraint by use of a leash or lead not more than six (6) feet in length.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.04.097 - Domesticated animal.

Domesticated animal means a pet or companion animal that is kept by humans for companionship, amusement or for the beauty of its appearance or utterances, rather than for economic reasons. A domesticated animal may include, but is not limited to, dogs, cats, fish, parrots, doves, cockatiels, budgies, cockatoos, finches, macaws, any other domesticated birds (except wild birds), nonpoisonous snakes under six (6) feet in length, rodents (including hamsters, guinea pigs, mice, gerbils, chinchillas, degus, flying squirrels and rats), sugar gliders, rabbits, ferrets and pot-bellied pigs.

(Ord. 8, 2006 §1)

7.04.100 - Dwelling unit.

Dwelling unit means one (1) or more rooms and a single kitchen designed for or occupied as a single unit.

(Ord. 52, 1985 §1(part))

7.04.102 - Exotic animal.

For purposes of this Title, the term *exotic animal* shall have the same meaning as the term *wild animal* .

(Ord. 02, 2010 §1)

7.04.103 - Exotic bird.

For purposes of this Title, the term *exotic bird* shall have the same meaning as the term *wild bird* .

(Ord. 02, 2010 §1)

7.04.105 - Fowl.

Fowl means any bird customarily used in the market or household for food consumption, such as a chicken, duck, goose, guinea, peafowl, turkey and pheasant.

(Ord. 8, 2006 §1)

7.04.110 - Humane officer.

Humane officer means any person designated by law or ordinance, or by a humane society under contract with the City, to perform the duties therein or herein designated.

(Ord. 52, 1985 §1(part))

7.04.120 - Humane manner.

Humane manner means care of an animal, including but not limited to adequate heat, ventilation, adequate shelter, adequate food, adequate water, veterinary services and any and all other care and/or treatment necessary to maintain the good health of the animal and to prevent suffering by the animal. *Humane manner* also means tethering only in compliance with this Title.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.04.130 - Humane trap.

Humane trap means any trap which is not designed to cause injury to the animal trapped.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.04.135 - Immediate vicinity.

Immediate vicinity means within the sight or hearing of a responsible adult.

(Ord. 8, 2006 §1)

7.04.140 - Inhumane trap.

Inhumane trap means any trap which is designed to cause injury to the animal trapped.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.04.150 - Kennel.

Kennel means any establishment or dwelling unit kept or being used for the purpose of keeping, boarding, breeding, buying, selling, grooming, letting for hire or engaging in the training of animals.

(Ord. 52, 1985 §1(part))

7.04.160 - Leash or lead.

Leash or *lead* means a thong, cord, rope, chain or similar device which holds an animal in restraint and which is not more than six (6) feet long.

(Ord. 52, 1985 §1(part))

7.04.170 - Livestock.

Livestock means any bovine animal, horse, mule, ass, sheep or goat.

(Ord. 52, 1985 §1(part))

7.04.180 - Neighborhood.

Neighborhood means the area within five hundred (500) feet of the exterior boundaries of the property where the animal is kept.

(Ord. 52, 1985 §1(part))

7.04.190 - Owner.

Owner means any person, partnership, corporation or association owning any animal or animals, or having the same in his, her or its care, custody or control, or who causes, encourages or suffers the same to remain upon his, her or its premises.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1 (part))

7.04.195 - Performing animal.

Performing animal means any animal not otherwise defined as a domesticated animal or livestock that is kept by any individual or corporation for the purpose of appearing in any performing animal exhibition.

(Ord. 8, 2006 §1)

7.04.200 - Performing animal exhibition.

Performing animal exhibition means any spectacle, display, act or event, other than a circus, in which performing animals are used.

(Ord. 52, 1985 §1(part))

7.04.210 - Pet.

Pet means any animal customarily kept for pleasure rather than for utility.

(Ord. 52, 1985 §1(part))

7.04.220 - Pet shop.

Pet shop means the premises of any person, partnership or corporation, whether operated separately or in connection with another business enterprise, that buys, sells or boards animals.

(Ord. 52, 1985 §1(part))

7.04.230 - Premises.

Premises means real property owned, rented, leased, used, kept or occupied by a person.

(Ord. 52, 1985 §1(part))

7.04.240 - Rabies vaccination.

Rabies vaccination means the inoculation of an animal with a rabies vaccine approved by the Colorado Department of Health.

(Ord. 52, 1985 §1 (part))

7.04.245 - Responsible adult.

Responsible adult means any individual who has reached the age of majority or has been legally emancipated, and who has not been declared incompetent to act in his or her own best interests by a court of law.

(Ord. 8, 2006 §1)

7.04.250 - Restraint.

Restraint means physical control by use of a lead or leash.

(Ord. 52, 1985 §1(part))

7.04.255 - Tethering.

Tethering means using a rope, chain or similar restraint for holding an animal in place.

(Ord. 8, 2006 §1)

7.04.260 - Trap.

Trap means any device used to contain or capture an animal.

(Ord. 52, 1985 §1(part))

7.04.270 - Veterinary hospital.

Veterinary hospital means any premises upon which a licensed veterinarian performs surgery, makes diagnoses and treats diseases of and injuries to animals.

(Ord. 52, 1985 §1(part))

7.04.280 - Vicious animal.

Vicious animal means any animal that constitutes a physical threat to humans or other domestic animals.

(Ord. 52, 1985 §1(part))

7.04.290 - Wild animal.

Wild animal means any prosimian or other nonhuman primate; venomous or poisonous snake or venomous or poison reptile; felids, (including but not limited to jaguars, cheetahs, mountain lions, wildcats, panthers, margays or any other species of cat other than ordinarily domesticated house cats); any ursids (including but not limited to bears); any wild birds as defined herein; any nonpoisonous snake longer than six (6) feet; any reptile (other than snakes) longer than one (1) foot; any mustelids (including but not limited to badgers, prairie dogs, skunks, beavers and muskrats); bats; procyonides (including but not limited to raccoons and coatis); elephants; marine mammals (including but not limited to seals, sea lions, dolphins and sea otters); hyenas; edentates (including but not limited to anteaters, sloths and armadillos); viverrids (including but not limited to mongooses, civets and genets); marsupials; undomesticated ungulates (including but not limited to deer, hippopotamuses, rhinoceroses, giraffes, camels and zebras); crocodilians (including but not limited to alligators and crocodiles); or any canid (including but not limited to wolves, coyotes, foxes or other species of canine other than ordinarily domesticated dogs). However, any animal that is in use for bona fide scientific research by a university or college shall not be considered a *wild animal* for purposes of this Title.

(Ord. 02, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.04.300 - Wild bird.

Wild bird means any birds of prey except for falcons as set forth in Section 7.28.050, any game bird (excluding fowl) and any bird not customarily kept as a domestic animal within the State.

(Ord. 8, 2006 §1)

Chapter 7.08 - Care and Protection

7.08.010 - Failure to provide treatment in humane manner unlawful.

It is unlawful for any person to fail to provide an animal owned or in the custody of such person with treatment in a humane manner.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.08.015. - Adequate shelter for domesticated animals.

A shelter for a domesticated animal shall be deemed inadequate unless said shelter:

(1) Has a roof, at least four (4) enclosed sides, a doorway and a solid level floor;

(2) Contains dry bedding in sufficient quantity for insulation against cold and damp;

(3) Is structurally sound and able to contain the animals and maintained in good repair to protect the animals from injury, safety or health hazards;

(4) Adequately provides the animals with shade, warmth and protection from weather, water and the elements; and

(5) Is kept clean and free of filth.

(Ord. 8, 2006 §1)

7.08.020 - Cruelty to animals and fightsunlawful.

It is unlawful to torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals, or between animals and humans.

(Ord. 52, 1985 §1(part))

7.08.030 - Abandonment unlawful.

It is unlawful to abandon an animal; in this context, *abandon* means to leave the animal unattended for more than forty-eight (48) consecutive hours.

(Ord. 52, 1985 §1(part))

7.08.040 - Killing or injuring unlawful; exceptions.

It is unlawful to intentionally or maliciously kill, injure or cause pain or suffering to any animal unless such act is necessary to defend a human being or other animal from immediate attack or as otherwise authorized by law or ordinance.

(Ord. 52, 1985 §1(part))

7.08.050 - Confining in vehicle unlawful; impoundment.

It is unlawful to confine any animal within a parked, closed vehicle, without allowing cross-ventilation to prevent the animal from suffering heat exhaustion, heat stroke or death; and under no circumstances shall a person confine such animal in any parked, closed vehicle on any public street or way for more than thirty (30) minutes. Any animal control officer or any police officer observing any animal kept in violation of this Section may enter the vehicle, leaving written notice in the vehicle and shall impound such animal to protect its well-being.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.08.060 - Continued custody without care unlawful.

It is unlawful for any person to keep any animal in his or her custody without providing for the animal's physical needs, including adequate food, adequate shelter and adequate water. Any violation of this Section is also a violation of Section 7.08.010.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.08.070 - Taking animalwithout permission.

It is unlawful for any person to take and deliver to the animal shelter or elsewhere an animal, not his or her own, from any premises, enclosed lot or building not his or her own, unless he or she has first received permission from the owner of such animal, as well as permission from the owner or person in possession of the premises, lot or building, unless authorized by this Title.

(Ord. 52, 1985 §1(part))

7.08.080 - Releasing from restraint without permission; exception.

It is unlawful to, without the consent of the owner, release any animal from restraint, except when necessary to preserve the life of such animal; provided, however, that when an animal has been released under such necessity, the person making such release shall immediately inform an animal control officer that he or she has done so or, in the alternative, shall immediately return the animal to the custody of its owner.

(Ord. 52, 1985 §1(part))

7.08.090 - Leavingon or near public way unlawful.

It is unlawful to tie or otherwise physically fasten an animal to any object on a public way or so near to a public way that the animal may go upon the same and to leave the animal and depart the immediate vicinity thereof.

(Ord. 52, 1985 §1(part))

7.08.095 - Fencing of animals without adequate space unlawful.

It is unlawful to confine an animal (including domesticated, wild or performing animals and livestock) within a fenced yard or fenced pen without providing adequate space for exercise. *Adequate space* means each animal should have the ability to move about freely and exercise consistent with the needs of the animal, considering the age, size, physical condition, medical condition, species and breed. The fencing of the yard or pen shall be of a sufficient height and of a sufficient material to prevent the animal from escaping from the fenced yard or pen and to prevent harm to the animal.

(Ord. 8, 2006 §1)

7.08.100 - Tethering in danger to well-being of domesticated animal unlawful; lawful tethering of domesticated animal defined.

(a) It is unlawful to tether any animal in such a manner as to create an immediate physical danger to the well-being of the animal.

(b) Tethering to a pole, stake or any similar stationary object shall be deemed to create an immediate physical danger to the well-being of a domesticated animal if the domesticated animal is not within the immediate vicinity of its owner, caretaker or other responsible adult, except as provided in Paragraph(c)(7) below.

(c) Domesticated animals not in the immediate vicinity of their owner, caretaker or other responsible adult may be tethered by means of a trolley system or attached to a pulley on a cable run, if the conditions set forth below are met:

(1) The tether must be attached to a properly fitting collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering.

(2) There must be a swivel attached to both ends of the tether to minimize tangling.

(3) The tether may not weigh more than one-eighth (1/8) of the animal's body weight.

(4) The trolley system or cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level.

(5) The tethered domesticated animal shall be provided with sufficient area to exercise, and shall have access to adequate shelter and adequate water.

(6) The trolley system or cable run must be located on the domesticated animal owner's property and must prevent the tether from extending over an object or edge that could result in injury or strangulation of the domesticated animal and prevent the tether from becoming entangled with other objects or animals.

(7) A stake, if flush with the ground and containing a slip ring or other low profile, freely rotating ring device, shall be allowed under the same conditions as a trolley system except for the trolley height requirements.

(d) In no case shall a domesticated animal be tethered in excess of ten (10) hours in a twenty-four-hour period. Tethering in excess of ten (10) hours in a twenty-four-hour period shall be unlawful and shall be deemed to constitute inhumane treatment of the domesticated animal.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1 (part))

7.08.110 - Poison exposure unlawful; exception.

It is unlawful to expose any known poisonous substance, whether mixed with food or not, so that a reasonable person would know or should know that such substance would probably cause animals to be attracted thereto, eat thereof and be poisoned thereby; provided, however, that this Section does not make unlawful the poisoning of rats or mice with commercial rat poison mixed with vegetable substances.

(Ord. 52, 1985 §1(part))

7.08.120 - Inhumane trap setting unlawful; exceptions.

It is unlawful to set any type of steel-jaw trap or any other inhumane trap which, by its nature, may kill or maim any animal or a human; provided, however, that this Section does not prohibit the use of common rat and mouse traps.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.08.130 - Artificially treated animals prohibited.

It is unlawful to possess, display, sell or give away dyed, colored or in any way artificially treated baby chicks, ducklings, fowl, rabbits or any other animals as pets, playthings, novelties or gifts.

(Ord. 52, 1985 §1(part))

7.08.140 - Motor vehicle strike or injury; duties of driver.

(a) Any person who, while driving a motor vehicle, strikes or injures any domestic animal shall:

(1) Stop and immediately report the accident to the owner of the animal or to the custodian of the animal if the custodian is of responsible age; or

(2) If, after a reasonable search, the driver cannot locate the owner, immediately report the accident to the animal control officer or the police.

(b) Failure to stop or report the accident is unlawful.

(Ord. 52, 1985 §1(part))

7.08.150 - Treatment in violation of this Chapter; removal and impoundment.

Any animal found receiving treatment in violation of this Chapter may be removed and impounded at the expense of the owner by the animal control officer, a police officer or the humane officer.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.08.160 - Endangered life; removal and impoundment.

Any animal whose life reasonably appears to be endangered may be removed and impounded by the animal control officer, police officer or humane officer, whether or not in the presence of its owner.

(Ord. 52, 1985 §1(part))

7.08.170 - Wild bird sanctuary; exception.

The entire area within the corporate limits of the City is a bird sanctuary for the refuge of all wild birds, except the English sparrow and the starling, and all persons within the City are urged to protect wild birds and encourage their propagation.

(Ord. 52, 1985 §1(part))

7.08.180 - Killing, injuring or molesting wild birds prohibited; exceptions.

No person shall, at any time, within the corporate limits of this City, frighten, shoot at, wound, kill, capture, ensnare, trap, net, poison or in any other manner kill, injure or molest any wild birds, or injure the nest, eggs or young of such birds; provided, however, that this Section does not apply to English or European house sparrows or starlings; and provided further that the Chief of Police has authority to grant a permit for the killing or capturing of pigeons, sparrows or starlings when, in his or her opinion, they have become a threat to the health and safety of the neighborhood.

(Ord. 52, 1985 §1(part))

Chapter 7.12 - Misdemeanor Infractions Relating to Animals

7.12.010 - Public nuisances.

The City Council finds, determines and declares that the animals described in this Chapter are detrimental to the public health, safety and welfare of the inhabitants of the City and finds, determines and declares each such animal to be a public nuisance. The violations set forth in this Chapter are designated misdemeanor infractions and any violation of this Chapter shall be punished pursuant to Chapter 1.32.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part)

7.12.020 - Reserved.

7.12.030 - Going to school without permission.

Any animal that goes upon school premises without the permission of the person in charge of the premises is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.040 - At large animals - first violation.

No owner of any animal shall permit such animal to run at large within the City. If any animal is found at any place within the City other than the premises of its owner, the owner is rebuttably presumed to have violated this Section and the first violation of such shall be a misdemeanor infraction. Second and subsequent violations within three hundred sixty-five (365) days of the date of the first violation shall be a violation of Chapter 7.14.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.050 - Noisy animals.

(a) Any animal that barks, whines, howls or makes any other noise in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous, or in such a manner as to interfere with the sleep of any such person or persons, is a violation of this Chapter.

(b) No owner of an animal in the City shall permit such animal to disturb the peace and quiet of the neighborhood by barking, whining, howling or making any other noise in a continuous or excessive manner; nor shall the owner of an animal in the City permit such animal to interfere with the sleep of any reasonable person of ordinary sensibilities between sunset and sunrise by barking, whining, howling or making any other noise in an excessive or continuous manner. The animal control officer or police officer has authority, without liability, to use all reasonable means to abate such violation, including the authority to impound such animal upon receipt of a signed complaint where the owner is absent from the premises; provided, however, that this authority does not extend to entering the owner's dwelling or other building upon the owner's premises.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.12.060 - Females in estrus.

(a) Any animal that, being a female in heat, because of the nature of its confinement or lack of the same, has attracted other animals and caused them to congregate or remain on or about any premises, is a violation of this Chapter.

(b) An animal control officer may order any unspayed female domesticated animal that is in a stage of estrus and is not properly confined, or any such animal that is creating a public nuisance, to be removed to a boarding facility or a veterinary hospital until the period of estrus is finished. All expenses incurred as a result of such order shall be paid by the domesticated animal's owner. Failure to comply with such an order is a violation of this Section and the domesticated animal may be impounded at the owner's expense.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.070 - Unlicensed or unvaccinated animals.

Any animal that has not been duly licensed or vaccinated as required by Chapters 7.16 and 7.20 is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.080 - Abandoned animals.

Any animal that has been abandoned is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.090 - Out-of-control animals - first violation.

Any animal that is not under control as required by thisTitle is a violation of this Chapter, and the first violation of such shall be a misdemeanor infraction. Second and subsequent violations within three hundred sixty-five (365) days of the date of the first violation shall be a violation of Chapter 7.14.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.100 - Damaging property other than of owner.

Any animal that damages public property or private property not owned by the owner of the animal is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.110 - Diseased animals without care.

Any animal that has contracted rabies or other contagious or pestilential disease and is not under the care of a veterinarian is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.120 - Reserved.

7.12.130 - Tethered unattended on public property.

Any animal that is tethered or otherwise physically fastened to any object on public property and the owner has departed from the immediate vicinity of the animal is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.12.140 - Food or beverage premises; exception.

Any animal that is on premises open to the public where food or beverages are prepared, stored or sold is a violation of this Chapter; provided, however, that this Section does not apply to Seeing Eye animals, animals trained as ears for the deaf, animals trained as an aid to the disabled or government-owned animals, provided that such animals are in service for such purposes at the time.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.12.150 - Defecation without cleanup.

Any animal that defecates upon public property or private property not owned by the animal's owner, and such excreta is not immediately removed by the owner, is a violation of this Chapter.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.12.160 - Unrestrained inpublic parks; exceptions.

(a) It is unlawful for any person to take an animal into a public park, regardless of whether the animal is on a leash or is confined, in which notices have been properly posted by the Director of Parks and Recreation, or a designee thereof, to enforce the rules and regulations promulgated pursuant to Section 13.40.070. Any animal not under restraint that is found in a public park where animals are allowed is a violation of this Chapter.

(b) This Section does not apply to Seeing Eye animals, animals trained as ears for the deaf, animals trained as an aid to the disabled, government-owned animals or animals participating in animal shows or exhibits that are conducted in compliance with officially sanctioned activities.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

Chapter 7.14 - Misdemeanor Offenses Relating to Animals

7.14.005 - Misdemeanor offenses.

The City Council finds, determines and declares that the animals described in this Chapter are detrimental to the public health, safety and welfare of the inhabitants of the City. The violations set forth in this Chapter are designated misdemeanor offenses, and any violation of this Chapter shall be punished pursuant to Chapter 1.32.

(Ord. 27, 2010 §1)

7.14.010 - Control required.

No owner of any animal shall permit such animal to run at large within the City. If any animal is found at any place within the City other than the premises of its owner, the owner is rebuttably presumed to have violated this Section.

(Ord. 52, 1985 §1(part))

7.14.020 - At large animals - misdemeanor violation.

Any animal that has been previously found to be at large pursuant to Chapter 7.12, and who is again found to be at large within three hundred sixty-five (365) days of the first violation shall be in violation of this Section.

(Ord. 27, 2010 §1)

7.14.030 - Out-of-control animals - misdemeanor violation.

Any animal that has been previously found to be out of control pursuant to Chapter 7.12 and who is again found to be out of control within three hundred sixty-five (365) days shall be in violation of this Section.

(Ord. 27, 2010 §1)

7.14.035 - Injured or killed animal on public street; deemed at large.

Animals killed or injured on or along public streets are deemed to have been running at large, and the animal control officer or a police officer may remove such animals therefrom and, in his or her discretion, may take those needing medical attention to the animal shelter or a veterinarian. The owner of any animal receiving such medical attention shall pay the City for the cost thereof, which cost may, if the owner refuses to pay therefor, be recovered by a personal civil action by the City against the owner.

(Ord. 27, 2010 §1)

7.14.040 - Property interference prohibited.

Any owner whose animal, whether or not running at large, destroys, damages or injures any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public property or upon private property not belonging to said owner, is in violation of this Section.

(Ord. 52, 1985 §1(part))

7.14.050 - Menacing or attacking animals.

Any owner whose animal menaces or attacks persons, animals or vehicles is in violation of this Chapter.

(Ord. 27, 2010 §1)

7.14.060 - Reserved.

7.14.065 - Removal of dead or diseased animals required.

Dead animals shall be immediately removed from private or public property and disposed of in accordance with any applicable law, rule or regulation. Diseased animals shall be removed from private or public property.

(Ord. 27, 2010 §1; Ord. 02, 2010 §1; Ord. 8, 2006 §1)

7.14.070 - Reserved.

7.14.080 - Vicious animals prohibited; exceptions.

(a) No person shall own, keep, harbor or possess any vicious animal in the City except as provided in Chapter 7.22, relating to guard dogs; provided, however, that an animal is not a vicious animal because it has attacked or bitten any or all of the following persons:

(1) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;

(2) Any person engaged in the unlawful entry into the animal owner's automobile or other vehicle wherein such animal is confined;

(3) Any person engaged in attempting to stop a fight between such animal and another animal; or

(4) Any person engaged in attempting to aid such animal when it is injured.

(b) It shall be an affirmative defense to a vicious animal charge that a female domesticated animal is nursing her young, unless such animal has previously been deemed a vicious animal pursuant to this Code or in another jurisdiction.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.14.090 - Lawfully upon private property defined.

For the purposes of Section 7.14.080, a person is lawfully upon the private property of such owner when he or she is on the property in the performance of any duty imposed upon him or her by the laws of this State or City, or the laws or postal regulations of the United States or when he or she is on such property at the invitation, express or implied, of the owner thereof.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part)

7.14.100 - Warnings and criminal charges.

If the animal control officer or any police officer of the City deems an animal to be a vicious animal, he or she shall issue a written warning to the owner of the animal stating his or her determination that such animal is a vicious animal, or he or she may cause criminal charges to be filed in Municipal Court against the owner, alleging the vicious propensities of such animal.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.14.110 - Court findings and orders.

If the Municipal Court finds that the evidence supports a charge made as set out at Section 7.14.100, the Municipal Judge may order any or all of the following:

(1) A fine of up to one thousand dollars ($1,000.00);

(2) Imprisonment as set forth in Chapter 1.32;

(3) Prohibit the owner from keeping such animal within the City;

(4) Order the animal's owner to restrict the animal as provided in Chapter 7.22 for guard dogs; and/or

(5) Order such animal to be destroyed in a humane manner.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.14.120 - Impoundment duty of officers.

It is the duty of the animal control officer or any police officer to seize and impound any vicious animal observed in violation of this Chapter, whether or not such vicious animal is on the premises of the owner, by whatever means is reasonable.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.14.130 - Destruction for public safety or safety of officers.

Any animal control officer, police officer or humane officer may, when reasonably necessary to protect his or her own person or that of members of the public, immediately destroy any animal. The owner of any such animal has no recourse or cause of action against either the City or such officers, or any of them.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.14.140 - Reserved.

7.14.150 - Trapping unrestrained animals; interference with traps prohibited.

The animal control officers, humane officers and police officers may place and set humane or live traps for the purpose of capturing unrestrained animals on any property in the City at the written request of the owner of such property. No person, other than such officers, shall molest or release any animal trapped therein or bother in any way any trap set pursuant to this Section.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.14.160 - Unauthorized or inhumane traps prohibited.

No person shall use inhumane traps within the City.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.14.170 - Confiscation and destruction.

The animal control officers, police officers and humane officers shall confiscate and destroy all unauthorized or inhumane traps.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

7.14.180 - No cause of action for confiscation.

No person using or setting inhumane traps has any cause of action, civil or criminal, against the City or its officers as a result of the confiscation of such traps as provided in Section 7.14.170 above.

(Ord. 27, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

Chapter 7.15 - Impoundment

7.15.010 - Animals subject to impoundment.

Any animal which constitutes a public nuisance as defined in Chapter 7.12, which has or is suspected of having rabies or which is found killed or injured on or along public streets or is otherwise in violation of this Title may be taken into custody by the animal control officer or any police officer and shall be humanely impounded in the animal shelter.

(Ord. 8, 2006 §1)

7.15.020 - Notice of impoundment.

Immediately upon impounding any animal, the animal control officer shall make all reasonable efforts to notify the owner of the animal of the impoundment. The officer shall mail notice to the owner of such animal at the owner's last known address, as indicated on the most recent license application, unless verbal notice of impoundment is given to the owner or another person of suitable age who resides with the owner. The notice shall be effective upon mailing. If, by contract with the City, the animal shelter assumes notification responsibilities, said notification shall be given by the animal shelter rather than the animal control officer.

(Ord. 8, 2006 §1)

7.15.030 - Disposal authorization when.

In no event shall any living animal be disposed of prior to the expiration of seventy-two (72) hours after the notice has been given as provided at Section 7.15.020 above or, in the event the owner has requested a hearing, prior to the expiration of twenty-four (24) hours after the hearing. If the owner is unknown, the animal shall not be disposed of prior to the expiration of seventy-two (72) hours after impoundment.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

7.15.040 - Euthanization or adoption.

Any animal not reclaimed by its owner within the time established in Section 7.15.030 above where no bond has been placed may be humanely euthanized or adopted. An animal may be humanely euthanized or adopted if an owner fails to post a bond pursuant to Section 7.15.120. Any animal may be disposed of at any time pursuant to the direction or authorization of a licensed veterinarian or state or other health authorities if required for public safety or in the best interests of the animal.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

7.15.050 - Injured or sick animals.

If, in the judgment of the animal control officer or police officer, an impounded animal is in need of immediate treatment for illness or injury, the officer may take the animal directly to a licensed veterinarian. If an impounded animal is delivered to the Humane Society pursuant to a contract between the City and the Humane Society, the Society may take the animal to a licensed veterinarian if in the judgment of the Society the animal is sick or injured and in need of immediate treatment. The costs of treatment shall remain the responsibility of the owner and may be recovered by the City or the Humane Society.

(Ord. 8, 2006 §1)

7.15.060 - Release to other than veterinarians prohibited when.

An animal control officer or humane officer shall not release, except to a veterinarian, any animal which is reasonably thought to be vicious and a threat to public safety or shows symptoms of rabies.

(Ord. 8, 2006 §1)

7.15.070 - Release; compliance required.

An animal shall be released only upon payment of all applicable charges and fees if authorized by the animal control officer, the City Manager or the Municipal Court. An animal released to a person residing in the City must first be licensed pursuant to Chapter 7.20, if applicable.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

7.15.080 - Costs responsibility of reclaiming owner.

An owner reclaiming an impounded animal shall be assessed a fee for the costs incurred on behalf of such animal for care and subsistence. This fee shall be set on an annual basis by the Humane Society or any other operator of the facility where the animal is impounded. In addition, the owner shall pay any costs incurred and the veterinary fees for the animal, if any.

(Ord. 8, 2006 §1)

7.15.090 - Fee responsibility of owner.

The owner of an impounded animal remains personally liable for all impoundment and veterinary fees, notwithstanding that the owner may abandon the animal or the animal is adopted or euthanized.

(Ord. 8, 2006 §1)

7.15.100 - Ownership of unclaimed animals.

Any animal not duly reclaimed by its owner within seventy-two (72) hours after notice has been given pursuant to Section 7.15.020 of this Chapter becomes and is the property of the City, and the owner is deemed to have abandoned the animal and forfeited his or her rights thereto and has no cause of action against the City or its employees or authorized agents as a result thereof.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

7.15.110 - Administrative impoundment hearings.

(a) The owner of an animal impounded pursuant to this Title is entitled to an impoundment hearing regarding the impoundment, if such person requests a hearing within seventy-two (72) hours of the notice of impoundment. The request for an administrative impoundment hearing must be personally delivered to the Police Department.

(b) The administrative impoundment hearing shall be conducted by the City Manager or his or her designee (hereinafter referred to as the "hearing officer") within ten (10) calendar days of the request. The City Manager shall notify the owner of the date, time and location of the hearing.

(c) At the hearing, the hearing officer shall determine whether there is probable cause to conclude that the animal is subject to impoundment under this Title. If the hearing officer finds probable cause, the officer shall assess the costs of impoundment against the owner. The owner may post a bond as set forth below to prevent disposition of the animal. Should the owner fail to post a bond, the animal may be disposed of or adopted at the discretion of the humane society or other facility where the animal has been impounded without further notice.

(d) If the hearing officer finds no probable cause, the officer shall order the immediate release of the animal. The owner shall not be liable for any boarding or impoundment fee.

(e) Failure of any person to request an impoundment hearing or to attend such hearing constitutes a waiver of the right to such hearing and constitutes a relinquishment of the owner's property rights to said animal, and the animal may be humanely disposed of or adopted at the discretion of the humane society or other facility where the animal has been impounded without further notice.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

7.15.120 - Bond.

The owner of an animal that has been impounded pursuant to this Chapter may prevent disposition of the animal by requesting an administrative impoundment hearing and subsequently posting a bond with the court in an amount sufficient to provide for the animal's care and keeping at the impound agency for at least thirty (30) days, including the day on which the animal was taken into custody. Such bond shall be filed with the court within seventy-two (72) hours after the animal is impounded or, if the owner has requested a hearing, within twenty-four (24) hours of the conclusion of the administrative impoundment hearing if the City Manager determined probable cause existed for the impoundment. At the end of the time for which expenses are covered by the bond, if the owner or custodian desires to prevent disposition of the animal, the owner or custodian shall post a new bond with the court within seventy-two (72) consecutive hours of the prior bond's expiration. However, the court shall order the immediate disposition of the animal by euthanasia if, in the opinion of a veterinarian, the animal is experiencing extreme pain or suffering. At the end of the time for which expenses are covered by the bond, the impound agency may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or custodian shall be liable for the cost of the care, keeping or disposal of the animal.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

7.15.130 - Time.

The time periods set forth in this Chapter shall be calculated by counting the number of hours, beginning at the time an animal is impounded and ending seventy-two (72) consecutive hours thereafter, including weekends and holidays, regardless of whether or not the shelter or City Hall is open or closed on any of the calendar days.

(Ord. 03, 2007 §1; Ord. 8, 2006 §1)

Chapter 7.16 - Rabies Control

7.16.010 - Inoculation required for dogs, cats and ferrets.

The owner of every dog, cat and ferret over the age of six (6) months shall cause such dog, cat or ferret to be inoculated against rabies, and the owner shall obtain from a licensed veterinarian a rabies vaccination certificate containing the following information: the name, address and telephone number of the owner of the vaccinated animal, the date of the vaccination, the date of expiration of the vaccination, the year and number of the rabies tag and the breed, age, color and sex of the vaccinated animal.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.16.030 - Reporting bitesrequired.

The owner of any animal that bites a human being shall report the occurrence to the animal control officer when known to him or her or reported to him or her and shall provide such further information requested by the animal control officer.

(Ord. 52, 1985 §1(part))

7.16.040 - Quarantine required.

Any animal that bites a human being shall be quarantined for a period of not less than ten (10) days from the date of the bite. The animal shall be quarantined on the owner's premises; provided, however, that if the owner refuses to quarantine the animal, the animal shall be quarantined at the animal shelter or a veterinary hospital at the expense of the owner. If the owner cannot be immediately identified, the animal shall be quarantined at the animal shelter or veterinary hospital until such time as the owner is located. The expense of the quarantine shall be the responsibility of the owner. Failure to quarantine is a violation of this Title.

(Ord. 52, 1985 §1(part))

7.16.050 - Reporting of rabies cases and bites required.

Every person having knowledge thereof shall report to the animal control officer any suspected or positively diagnosed occurrence of rabies and any biting by any suspected or confirmed rabid animal.

(Ord. 52, 1985 §1(part))

7.16.060 - Killing rabid or suspect animals authorized.

No person shall kill any suspected or confirmed rabid animal except upon the prior written consent of the animal control officer, or in defense of a human being or other animal, or to prevent the escape of such suspected or confirmed rabid animal. This Section does not apply to state or county health officials.

(Ord. 52, 1985 §1(part))

7.16.070 - Body removal; approval required.

No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found without the prior written approval of the animal control officer. This Section does not apply to state or county health officials.

(Ord. 52, 1985 §1(part))

7.16.080 - Destruction of rabid animals.

If rabies has been diagnosed by a veterinarian or medical doctor in any animal, such animal shall be summarily destroyed and its brain sent immediately to the State Health Department in Denver for positive verification at the owner's expense, or the animal or its body may be disposed of according to law, regulation or order of the Department of Health.

(Ord. 52, 1985 §1(part))

7.16.090 - Animals without established incubation period; destruction.

If a standard rabies incubation period has not been established for a particular species of animal and any animal of that species has been diagnosed as rabid or is reasonably suspected of being rabid, it shall be summarily destroyed, and if involved with another animal or human, a necropsy shall be performed to determine whether the other animal is contaminated by rabies.

(Ord. 52, 1985 §1(part))

7.16.100 - Quarantine by Chief of Police.

When there has been a positive diagnosis of rabies within the City, the Chief of Police may declare a City-wide quarantine for a reasonable period of time not to exceed six (6) months. During the period of such quarantine, every owner of animals shall confine his or her animals within the premises of the owner and shall not transport, take or remove his or her animal from the City without the prior written consent of the animal control officer.

(Ord 52, 1985 §1(part))

7.16.110 - Violations.

(a) The first violation of this Chapter shall be deemed a misdemeanor infraction and shall be punished pursuant to Chapter 1.32.

(b) Any second or subsequent violation of this Chapter within three hundred sixty-five (365) days of the first violation shall be deemed a misdemeanor offense and shall be punished pursuant to Chapter 1.32.

(Ord. 27, 2010 §1)

Chapter 7.20 - Licenses

7.20.010 - Dog or cat license required.

Except as otherwise provided in this Chapter, any person within this City owning, keeping, harboring or having custody of any dog or cat shall obtain a license for such animal in the manner specified in this Chapter.

(Ord. 12, 1990 §3(part); Ord. 52, 1985 §1(part))

7.20.020 - Deadline for application; nonresident exception.

An applicant for a dog or cat license shall apply for a license immediately after having become the owner of or after having begun to keep, harbor or have custody of any such dog or cat or immediately after such dog or cat is brought into this City; provided, however, that this requirement does not apply to a nonresident keeping a dog or cat within the City for not longer than sixty (60) days.

(Ord. 12, 1990 §3(part); Ord. 52, 1985 §1(part))

7.20.030 - Where to file; contents.

(a) An applicant for a dog or cat license may apply at the Finance Department and/or at such other locations as contracted for by the City. Such application shall be upon forms provided by the City and shall contain at least the following information:

(1) The name, address and a telephone number of the owner;

(2) The call name, breed, color and sex of the animal;

(3) Proof of current rabies vaccination;

(4) Documentation of animal neutering, if applicable.

(b) The applicant shall not knowingly make any material misrepresentation in the license application.

(c) Licenses issued by any agency other than the Finance Department shall be periodically reported to the Finance Department as required by the agency's contract with the City.

(Ord. 27, 2010 §1; Ord. 53, 2009 §1; Ord. 12, 1990 §3(part); Ord. 52, 1985 §1(part))

7.20.040 - Application fee.

The application fees and duration of the license shall be set in writing annually by the City Manager.

(Ord. 53, 2009 §2; Ord. 9, 2004 §1; Ord. 12, 1990 §3(part); Ord. 52, 1985 §1(part))

7.20.050 - Issuance of tag; term.

(a) Upon acceptance of the completed license application and after payment of the license fee, the staff of the Finance Department or such other persons as contracted for by the City shall issue a durable tag stamped with an identifying number and year of issuance.

(b) One-year licenses shall be valid for the twelve (12) months following the date of issuance.

(c) Two-year licenses shall be valid for twenty-four (24) months following the date of issuance.

(d) Three-year licenses shall be valid for thirty-six (36) months following the date of issuance.

(e) Any dog or cat released from impoundment to an owner residing in the City shall be duly licensed as provided in this Chapter. Animals too young to be vaccinated in impoundment may be released but shall be vaccinated and licensed by their owner upon reaching six (6) months of age.

(Ord. 9, 2004 §2; Ord. 11, 1991 §1; Ord. 12, 1990 §3(part); Ord. 52, 1985 §1(part))

7.20.060 - Wearing tags required.

Dogs shall wear the tags issued according to Section 7.20.050 above at all times while outside of the owner's premises unless, for purposes of training, the dog is wearing a training collar.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.20.070 - Use by other than licensed animal prohibited.

No person shall use or permit the use of a license tag for an animal other than the animal for which such tag was duly issued.

(Ord. 52, 1985 §1(part))

7.20.080 - Duplicate tag.

A duplicate tag may be obtained upon payment of a replacement fee, which amount shall be set in writing annually by the City Manager.

(Ord. 53, 2009 §3; Ord. 52, 1985 §1(part))

7.20.090 - Record of tags issued; maintenance; inspection.

The Finance Department shall maintain a record of all tags issued according to this Chapter, and such record may be inspected by the public in accordance with the public records laws.

(Ord. 46, 2012 §1; Ord. 52, 1985 §1(part))

7.20.100 - Exceptions to requirements.

Dogs specially trained to aid or assist handicapped or disabled persons and governmental police dogs are excepted from the licensing requirements of this Chapter and from payment of such fees as are set out in this Chapter. Any owner claiming any of these exceptions has the burden of proving to the satisfaction of the licensing authority that the dog in question is entitled to such exception.

(Ord. 61, 1996 §1; Ord. 52, 1985 §1(part))

7.20.110 - Violation.

Violations of this Chapter shall be deemed misdemeanor infractions and shall be punished pursuant to Chapter 1.32.

(Ord. 27, 2010 §1; Ord. 52, 1985 §1(part))

Chapter 7.22 - Guard Dogs

7.22.010 - Guard dog defined.

As used in this Chapter, the words *guard dog* mean any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

(Ord. 52, 1985 §1(part))

7.22.020 - Application of Chapter.

This Chapter shall apply to all guard dogs and owners of guard dogs, with the exception that Sections 7.22.040, 7.22.050, 7.22.060, 7.22.070, 7.22.150, 7.22.160, 7.22.170 and 7.22.180 shall not apply to those guard dogs owned or possessed by the same person, partnership or corporation owning or in legal possession of the premises to be guarded.

(Ord. 52, 1985 §1(part))

7.22.030 - Compliance with Chapter required.

No person shall place or maintain guard dogs in any area for the protection of persons or property unless and until all applicable provisions of this Chapter have been met.

(Ord. 52, 1985 §1(part))

7.22.040 - Permit required; procedures.

Every person referred to at Section 7.22.020 shall have applied for and received a guard dog permit for each premises where guard dogs are proposed to be used. Applications for such permits shall be made to the Chief of Police. The Chief of Police shall establish the procedures for permit applications, inspection of guard dog facilities and for the issuance of guard dog identification tags.

(Ord. 52, 1985 §1(part))

7.22.050 - Transfer of location requirements.

Permits for both permanent and temporary locations may be transferred to a new location operated by the same permittee during the same year; provided, however, that no such transfers are effective before the Chief of Police or his or her designee has inspected and approved the required facilities at the new location. No such transfer shall be granted until five (5) working days have expired from the date of application for transfer.

(Ord. 52, 1985 §1(part))

7.22.060 - Application contents.

Permit applications shall include at least the following information:

(1) The name of the applicant;

(2) The address of the applicant;

(3) The name and address of the person who is the handler of the guard dog; and

(4) The address ofthe premises where such guard dogs are proposed to be used.

(Ord. 52, 1985 §1(part))

7.22.070 - Fees required.

Every application for a permit must be accompanied by the appropriate fee as set in accordance with Section 1.05.010 of this Code.

(Ord. 26, 2011 §1; Ord. 52, 1985 §1(part))

7.22.080 - Gates and entrances closed and locked.

All gates and entrances to the area where the guard dog is housed, used or trained shall be kept closed and locked when not in use.

(Ord. 52, 1985 §1(part))

7.22.090 - Protection measures; compliance required.

Additional measures determined necessary by the Chief of Police or his or her designee to protect the public from accidental contact with the guard dog shall be taken by the permittee or owner.

(Ord. 52, 1985 §1(part))

7.22.100 - Fencing requirements.

Where guard dogs are to be used outside of buildings, the permittee or owner must enclose the area guarded with at least a ten-foot-high chain-link fence, to which anti-escape devices have been added when such is determined necessary by the Chief of Police or his or her designee as necessary to protect the public from accidental contact with the guard dog.

(Ord. 52, 1985 §1(part))

7.22.110 - Sight barriers may be required.

The Chief of Police or his or her designee may also require the permittee or owner to erect and maintain a sight barrier which breaks the guard dogs' line of vision.

(Ord. 52, 1985 §1(part))

7.22.120 - In-building use; anti-escape measures.

In buildings where guard dogs are to be used, the Chief of Police or his or her designee may require the permittee or owner to provide protective measures to insure that guard dogs cannot jump through exterior glass windows, doors or other such openings in the exterior walls of such buildings.

(Ord. 52, 1985 §1(part))

7.22.130 - Warning signs; specifications; posting.

The Chief of Police or his or her designee may require the permittee or owner to post the building and yard where a guard dog is to be used with signs reading, "DANGER! GUARD DOG!" Such signs shall be printed with letters not less than two (2) inches high and shall be first approved by the Chief of Police or his or her designee. The Chief of Police or his or her designee may also require such signs to be illuminated at night and to the degree they deem necessary to insure that they are readily visible and readable. Such signs shall be posted not more than one hundred (100) feet apart along the perimeter of the premises and shall be posted at all premises corners and at every entrance into the building yard.

(Ord. 52, 1985 §1(part))

7.22.140 - Transportation vehicles; protection measure.

The Chief of Police or his or her designee may require that vehicles used in transporting guard dogs be modified and screened to protect the public from accidental contact with the guard dog.

(Ord. 52, 1985 §1(part))

7.22.150 - Inspection authority of police.

The permittee agrees and consents to the entry of the premises in which guard dogs are used, by the Chief of Police or his or her designee, for the purpose of ascertaining whether the provisions of this Chapter have been and are being complied with.

(Ord. 52, 1985 §1(part))

7.22.160 - Insurance requirements.

(a) As an express condition precedent to the granting of any permit under this Chapter, every proposed permittee shall obtain, at his or her own expense, a policy of insurance, issued by a company authorized to do business in the State, insuring the permittee, the City, the City's agents and employees enforcing this Title, and protecting, defending and holding harmless the City and its agents and employees from and against claims, suits and demands, whether frivolous or otherwise, caused by or arising out of injury, death or property damage to third persons caused by thepermittee's guard dog or dogs.

(b) The policy shall be in the minimum amount of one million dollars ($1,000,000.00) for injury to or death of any one (1) person and three million dollars ($3,000,000.00) for injuries or deaths in any one (1) occurrence or incident, and the policy shall also provide for third-person property damage coverage in the amount of five thousand dollars ($5,000.00).

(c) Such policy shall have been exhibited to and received the written approval of the Finance Director. A copy of such approved policy shall be filed with the City Clerk and the policy shall contain a provision that thirty (30) days' advance notice of any cancellation thereof shall be given by the insurance company, in writing, to the City Clerk and the Chief of Police.

(Ord. 52, 1985 §1(part))

7.22.170 - Permit issuance; authority of Chief of Police.

If the Chief of Police is satisfied that the provisions of this Chapter and condition precedent set out at Section 7.22.160 have been met and fully complied with, he or she may issue the permit; provided, however, that the Chief of Police may append to such permit any other provisions or conditions which he or she deems necessary to protect the public safety.

(Ord. 52, 1985 §1(part)

7.22.180 - Revocation of permit.

Any permit issued pursuant to this Chapter may be revoked, after notice and an opportunity for hearing, for failure to comply with the provisions of the permit, for willful falsification of the application for the permit, for fraud upon the City or for other violation of this Chapter, after having been given thirty (30) days in which to cure such violations and having failed to do so.

(Ord. 52, 1985 §1(part))

7.22.190 - Governmental guard dogs excepted from requirements.

This Chapter does not apply to governmental guard dogs.

(Ord. 52, 1985 §1(part))

7.22.200 - Violation; impoundment of dog; prosecution of persons.

Any guard dog found in violation of this Chapter or this Title shall be immediately impounded by the Chief of Police or his or her designee. The owner, handler, keeper or other person charged with the possession of such dog may be prosecuted for violation of this Chapter or this Title.

(Ord. 52, 1985 §1(part))

Chapter 7.24 - Animal Establishment Permits

7.24.010 - Kennels and animal establishments; land use approval required.

No person or owner shall keep or operate any kennel or other animal establishment without having first applied for and received land use approval therefor. Such approval shall be valid indefinitely unless sooner revoked as provided in this Chapter and/or in Section 18.46.065 of this Code.

(Ord. 01, 2007 §2; Ord. 52, 1985 §1(part))

Chapter 7.28 - Wild Animals, Performing Animals, Wild Birds, Fowl and Livestock

7.28.010 - Wild or vicious animals; display or exhibition prohibited; exceptions.

No person shall keep or permit to be kept on his or her premises any wild animal, wild bird, fowl, performing animal or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee, unless otherwise authorized herein; provided, however, that this Section and Sections 7.28.020 and 7.28.030 do not apply to zoological parks, performing animal exhibitions or circuses elsewhere regulated by law.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.020 - Wild animals and wild birds as pets; permit or license required.

No person shall keep or permit to be kept any adult wild animal or wild bird as a pet unless such person has received, from the State Division of Wildlife or a corresponding department or agency of the United States government, a permit or license therefor.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.030 - Release order authority of; noncompliance is violation.

The animal control officer has the authority to order any person or owner to release any wild animal kept or permitted to be kept in violation of this Title. Any person or owner refusing or neglecting to obey such order immediately is in violation of this Title and shall be punished accordingly.

(Ord. 52, 1985 §1(part))

7.28.040 - Sanitary conditions required.

No person keeping wild animals, wild birds, fowl, performing animals and/or livestock shall fail to provide facilities for keeping the animal environment clean and free of filth. Failure to do so is a violation of this Chapter.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.050 - Falconers; license, confinement or control required.

State-licensed or federally licensed falconers may keep birds of prey on their premises; provided that such birds of prey are maintained according to state and federal laws and regulations and are confined or controlled to preclude their posing a threat to persons or animals within the City, and to preclude noise which could be considered by reasonable persons of ordinary sensibilities as excessive or continuous, or which interferes with the sleep of any such person or persons.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.060 - Performing animals; certain techniques prohibited.

No person is permitted to exhibit any animal performance in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or probably cause physical injury, suffering or irritation to any such animal.

(Ord. 52, 1985 §1(part))

7.28.070 - Equipment requirements.

All equipment used on any performing animal shall fit properly and be in good working condition and no person shall fix, affix or otherwise attach to any such animal any equipment which is not.

(Ord. 52, 1985 §1(part))

7.28.080 - Excreta; owner responsible for removal.

The owner of every animal shall immediately remove or cause to be removed any excreta deposited by such animal in public areas, recreational areas or private property which is not his or her own.

(Ord. 52, 1985 §1(part))

7.28.090 - Provisions not to limit county health powers.

This Title does not limit the power of the County Health Department to enforce ordinances relating to public health and safety.

(Ord. 52, 1985 §1(part))

7.28.105 - Adequate shelter for wild animals, performing animals and livestock.

Shelter for wild animals, performing animals and livestock shall be deemed inadequate unless said shelter:

(1) Is structurally sound and able to contain the animals and maintained in good repair to protect the animals from injury, safety or health hazards;

(2) Adequately provides the animals with shade, warmth and protection from weather, water and the elements; and

(3) Is kept clean and free of filth.

(Ord. 8, 2006 §1)

7.28.110 - Running at large prohibited; herding and tethering restrictions.

No wild animal, wild bird, performing animal, fowl or livestock shall be permitted to run at large within the City, nor shall any such animals be herded or tethered upon any street, alley, ditch bank or public grounds within the City, nor shall any such animals be tethered upon any lot or private grounds as to enable such animals to trespass upon any street, sidewalk, ditch bank, alley or public ground of the City, unless the owner of such animals has obtained official permission from the City for such herding or tethering.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.120 - Impoundment.

The Chief of Police may impound any wild animal, wild bird, fowl, performing animal, livestock or swine running at large within the City in a public pound provided for that purpose in accordance with the impoundment procedures set forth in Chapter 7.15 of this Title.

(Ord. 02, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.140 - Impounded animals; care permitted; recovery of costs.

In case any animal is at any time impounded and continues to be without adequate shelter, adequate food and adequate water, any person, from time to time and as often as it is necessary, may enter into or upon any pound or corral in which any such animal is confined and supply it with necessary food and water so long as it remains so confined. Such person shall not be liable to any action for such entry, and the reasonable cost of such feed and water may be collected by him or her from the owner of such animal. This Section does not apply to animals impounded and sheltered in the animal shelter.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.150 - Live bird shipping and receiving containers; height.

All crates or cages in which live birds are received for transportation shall be sufficiently high so that birds confined therein can stand erect and hold their heads upright without touching the top.

(Ord. 02, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.28.160 - Shipping and receiving container construction; supply of food and water.

Such crates or cages as are described at Section 7.28.150 above shall be made of open slats or wire on at least three (3) sides and shall have troughs or other receptacles, easy for access at all times by the birds confined therein but so placed that their contents cannot be befouled by the live birds; in such troughs there shall be constantly kept clean water and suitable food.

(Ord. 02, 2010 §1; Ord. 52, 1985 §1(part))

7.28.170 - Cleanliness, room temperature.

Such crates or cages as are described at Section 7.28.150 above shall be kept clean and in wholesome condition. Live birds confined therein shall not be overcrowded but shall have room to move about and shall not be exposed to undue heat or cold.

(Ord. 02, 2010 §1; Ord. 52, 1985 §1(part))

7.28.180 - Removal of dead, injured or diseased fowlrequired.

Dead, injured or diseased fowl and birds shall be at once removed from containers described at Section 7.28.150.

(Ord. 52, 1985 §1(part)

7.28.190 - Transfer after receiving required.

Whenever live birds shall be received for sale or storage, they shall immediately be transferred to such crates or cages as are described in Sections 7.28.150 through 7.28.180 below.

(Ord. 02, 2010 §1; Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

Chapter 7.30 - Hunting

7.30.010 - Revocable permits for hunting.

(a) Notwithstanding any other provision of this Chapter, the City Manager or his or her designee may grant a revocable permit to a landowner containing such conditions as may be appropriate to allow hunting on land within the City. Such permit shall be granted for a time period to be determined by the City Manager or his or her designee, but not to exceed three hundred sixty-five (365) days. Any such permit so granted shall be subject to all statutes and regulations of the State pertaining to the discharge of firearms, BB guns, pellet guns, bows and arrows or crossbows. Any such permit so granted shall specifically designate what animals, fowl or wildlife may be hunted in such designated area and shall state that such animals, fowl or wildlife may only be hunted in conformance with state regulations governing hunting seasons. Granted revocable permit applications will require the permit holder to sign an agreement acknowledging his or her obligations and responsibilities, to include the landowners' responsibility to provide a copy of the permit to all lessees and/or users of the property, and also acknowledge that the revocable permit can be revoked without cause at City discretion.

(b) Administrative denial of a revocable permit may be appealed to the City Council. Within thirty (30) days of an administrative denial of a revocable permit, the applicant shall submit a written request for Council appeal to the City Clerk. City staff will then schedule review of the appeal at a regularly scheduled City Council meeting.

(Ord. 02, 2007 §1; Ord. 8, 2006 §1)

Chapter 7.32 - Enforcement

7.32.020 - Enforcement; violation forinterference or failure to obey.

The animal control officer and police officers shall enforce the provisions of this Title. It is a violation of this Title and this Chapter for any person to interfere with any animal control officer or any police officer who is performing his or her duties pursuant to this Title, this Code or state law. It is also a violation of this Title for any person to fail to obey a lawful order of any such officer.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.32.030 - Certificates or badges.

Officers and agents of the Humane Society shall be provided with certificates by such Society that they are such officers and agents, in such form as the directors of such Society may choose, or with a badge bearing the name or seal of such Society, and shall, if requested, show such certificate or badge when acting officially.

(Ord. 52, 1985 §1(part))

7.32.040 - Scope of authority.

Any officer, agent or employee of the Humane Society of Weld County, if such society is under contract with the City, may perform such functions as provided by such contract and by this Title and in performing such functions has the same authority as an animal control officer of the City.

(Ord. 52, 1985 §1(part))

7.32.050 - Enforcement authority.

The animal control officers and police officers may enforce the provisions of this Title and may cooperate with state, county, federal or other governmental officers, employees or agents to enforce this Title or laws of other such governmental subdivisions which relate to animal control, protection or humane treatment; provided, however, that such cooperation takes place in the City and in the County. Nothing in this Chapter shall be deemed to alter or in any way affect the authority of the Colorado Division of Wildlife to enforce laws or rules related to animals or wildlife.

(Ord. 8, 2006 §1; Ord. 52, 1985 §1(part))

7.32.060 - Violation; penalty.

Any person who violates any provision of this Title or performs any unlawful act defined by this Title, any person who fails to perform any act required by this Title, or any person who fails or refuses to comply with any lawful order given pursuant to this Title is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Chapter 1.32 of this Code, if no other penalty is provided. Each day of any such violation is a separate offense and punishable accordingly. In addition to those penalties set forth in Chapter 1.32, the Municipal Judge may order any or all of the following:

(1) A fine of up to one thousand dollars ($1,000.00);

(2) Imprisonment as set forth in Chapter 1.32;

(3) Prohibit the owner from keeping such animal within the City;

(4) The animal's owner to restrict the animal as provided in Chapter 7.22 for guard dogs; and/or

(5) Such animal to be destroyed in a humane manner.

(Ord. 05, 2011 §1; Ord. 8, 2006 §1; Ord. 56, 1994 §1; Ord. 52, 1985 §1(part))

Council Agenda Summary

July 16, 2019

Agenda Item Number 13

Title
Pulled Consent Agenda Items

Council Agenda Summary

July 16, 2019

Agenda Item Number 14

Key Staff Contact: Sean Chambers, Water & Sewer Director, 970-350-9815

Title:
Public hearing and final reading of an ordinance concerning the acquisition of interests in real property located in Weld County, Colorado for sanitary sewer infrastructure, by purchase or exercise of the power of eminent domain, pursuant to Section 7 of Article XVI, Section 15 of Article ii, and Sections 1 and 6 of Article XX of the Colorado Constitution and Colo. Rev. Stat. § 38-1-101, et seq. (Ashcroft Lift Station)

Summary:
This ordinance authorizes the acquisition of exclusive permanent easements, temporary construction easements, and acquisition of property to construct and maintain the Ashcroft Lift Station and associated force main.

The Ashcroft Lift Station will be a new lift station that will serve the Ashcroft Draw Basin. The Lift Station will serve future development in the Ashcroft Draw Basin and allows for the re-routing of St. Michael's subdivision wastewater flow to City of Greeley and from the City of Evans. The project will include a lift station and force main that will connect into an existing manhole and gravity sewer system. This ordinance was introduced at the July 2, 2019 Council meeting.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	Unknown – to be negotiated
What is the annual impact?	None
What fund of the City will provide Funding?	402 – Sewer New Construction
What is the source of revenue within the fund?	Plant Investment Fees
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

Legal Issues:
Consideration of this matter is a legislative process which includes the following public hearing steps:

1) City staff presentation (if requested)
2) Council questions of staff

3) Public input (hearing opened, testimony - up to three minutes per person, hearing closed)
4) Council discussion
5) Council decision

<u>Other Issues and Considerations:</u>
None.

<u>Applicable Council Priority and Goal:</u>
Infrastructure & Growth: Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.

<u>Decision Options:</u>
1) Adopt the ordinance as presented; or
2) Amend the ordinance and adopt as amended; or
3) Deny the ordinance; or
4) Continue consideration of the ordinance to a date certain.

<u>Council's Recommended Action:</u>
A motion to adopt the ordinance and publish with reference to title only.

<u>Attachments:</u>
Ordinance
Exhibit A – Acquisition Map

CITY OF GREELEY, COLORADO

ORDINANCE NO. ___, 2019

CONCERNING THE ACQUISITION OF INTERESTS IN REAL PROPERTY LOCATED IN WELD COUNTY, COLORADO FOR SANITARY SEWER INFRASTRUCTURE, BY PURCHASE OR EXERCISE OF THE POWER OF EMINENT DOMAIN, PURSUANT TO SECTION 7 OF ARTICLE XVI, SECTION 15 OF ARTICLE II, AND SECTIONS 1 AND 6 OF ARTICLE XX OF THE COLORADO CONSTITUTION AND COLO. REV. STAT. § 38-1-101, et seq. (ASHCROFT LIFT STATION)

WHEREAS, the City of Greeley ("City") is a Colorado home-rule municipality empowered, pursuant to Sections 1 and 6 of Article XX of the Colorado Constitution, to, *inter alia*, construct, purchase, acquire, lease, add to, maintain, conduct, and operate water works and everything required therefor, within or without its territorial limits, for the use of the City; and

WHEREAS, Section 15 of Article II and Section 7 of Article XVI of the Colorado Constitution further authorize the City to acquire easements for domestic, irrigation, drainage, and other purposes; and

WHEREAS, the Greeley City Council ("Council"), on the recommendation of City staff and the City of Greeley Water and Sewer Board, has determined that the development and use of additional sanitary sewer lines and associated facilities in the Ashcroft Draw Basin Area, generally depicted on Exhibit A, is necessary for the continued overall operation of the water works, and more specifically to increase the capacity of sanitary sewer service for the citizens of the City, and thereby, to promote growth; and

WHEREAS, the Ashcroft Draw Basin Area is one such area where additional sanitary sewer lines and associated facilities will need to be located, and is an area that is generally experiencing growth and redevelopment into more intensive land uses; and

WHEREAS, City staff and legal counsel have determined that the additional sanitary sewer lines and associated facilities described above will need to be installed in the ground at varying depths, and that, accordingly, the acquisition of interests in real property is necessary in order to construct and maintain such sanitary sewer lines and associated facilities in the area depicted on Exhibit A; and

WHEREAS, the Council has determined that the aforementioned acquisition of interests in real property, either through purchase or exercise of the City's power of eminent domain, is necessary for the development and use of said sanitary sewer lines and associated facilities.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO AS FOLLOWS:

Section 1. The Greeley City Council hereby determines that it is necessary for the City to acquire, either through purchase or exercise of the power of eminent domain, permanent easements and temporary construction easements for the installation, operation, maintenance, repair, and replacement of sanitary sewer lines and associated facilities, for the continued overall operation of the water works, and more specifically to increase the capacity of sanitary sewer service for the citizens of the City.

Section 2. The Greeley City Council hereby determines that the acquisition of permanent easements and temporary construction easements is necessary within the Ashcroft Draw Basin Area depicted on Exhibit A, either through purchase or exercise of the power of eminent domain, for the above-described purposes.

Section 3. City staff and legal counsel are hereby authorized and directed to continue with the acquisition of the above-described interests in real property, either through purchase or exercise of the power of eminent domain. The City Council hereby ratifies any previous actions by City staff and legal counsel in negotiating the acquisition of such interests in real property, and in providing notice of the City's intent to acquire such interests, in accordance with Colo. Rev. Stat. § 38-1-101, et seq.

Section 4. This ordinance shall take effect on the fifth day following its final publication, as provided in Section 3-16 of the Greeley City Charter.

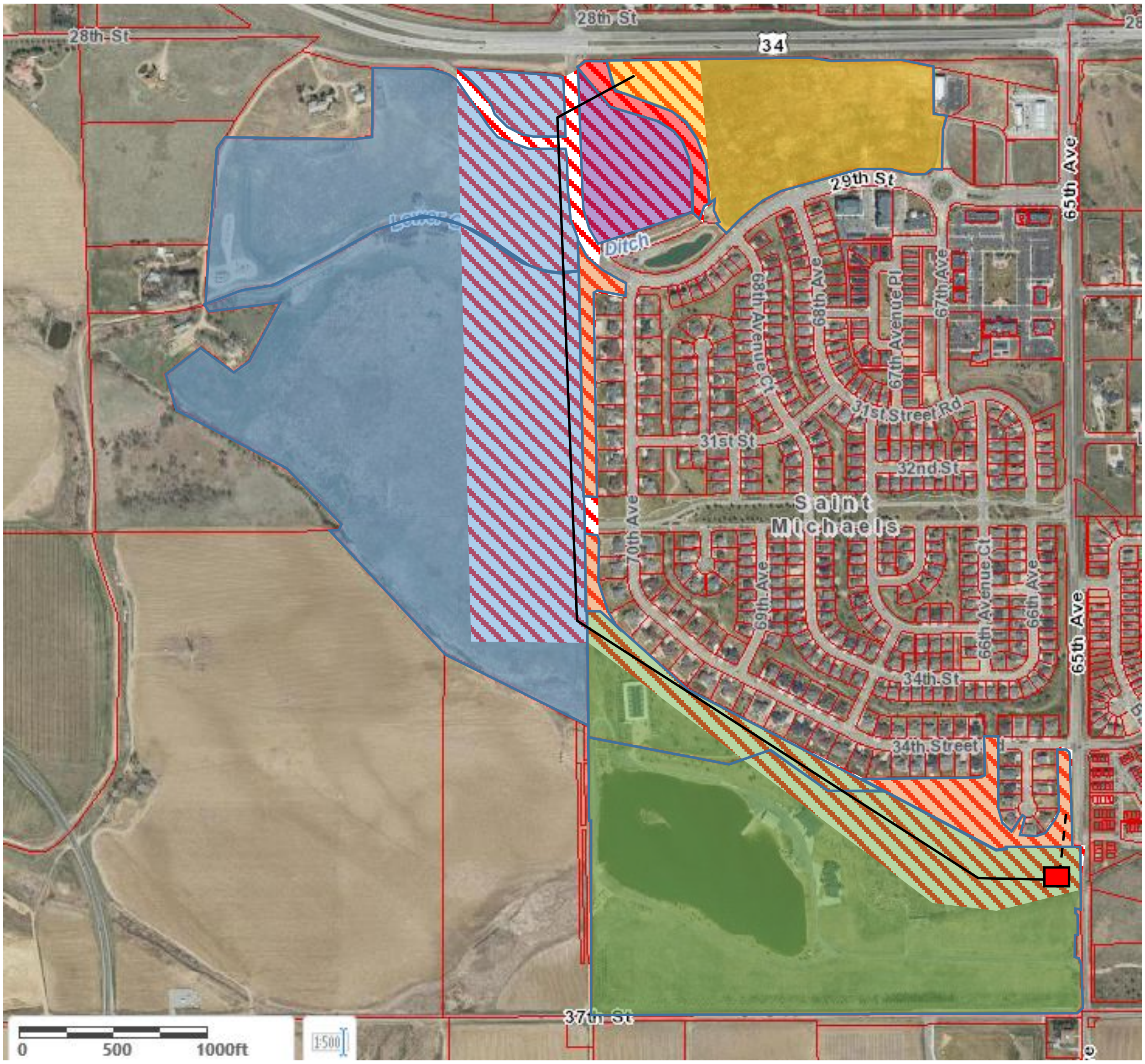
PASSED AND ADOPTED, SIGNED AND APPROVED THIS ___ DAY OF _____________________ 2019.

ATTEST: **THE CITY OF GREELEY, COLORADO**

________________________________ ________________________________

City Clerk Mayor

Exhibit A – Acquisition Map



Boomerang Ditch Lateral (1 Parcel)

Greeley Commons Investments, LLC (2 Parcels)

St. Michaels Commercial Enterprises, LLC (1 Parcel)

St. Michaels Owner Association (3 Parcels)

St. Michaels Reservoir Estate, LLC (2 Parcels)

University of Colorado Health (1 Parcel)

Proposed connection to existing sewer

Proposed Force Main Route

Approx. Lift Station Location

Approximate Acquisition Area

Note: Exact location of the lift station and force main routing will be determined during design. Easement and property acquisition locations will be determined at that time.

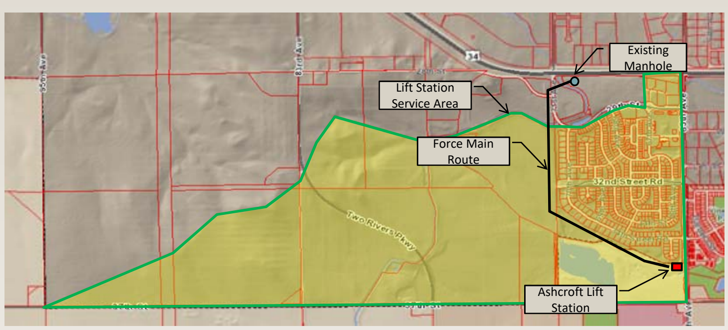
City of Greeley Colorado

Ashcroft Draw Basin Lift Station: Site Identification, Acquisition and Easement Acquisitions

July 2, 2019

Ashcroft Lift Station

- **Wastewater Lift Station Purpose and Drivers**
  - Serve future buildout of Ashcroft Draw Service Area
  - Re-direct existing St. Michaels' wastewater from City of Evans to City of Greeley
  - Provides more control for City of Greeley and assurance to the citizens for development of the area
  - Captures PIF revenue that would otherwise go to Evans

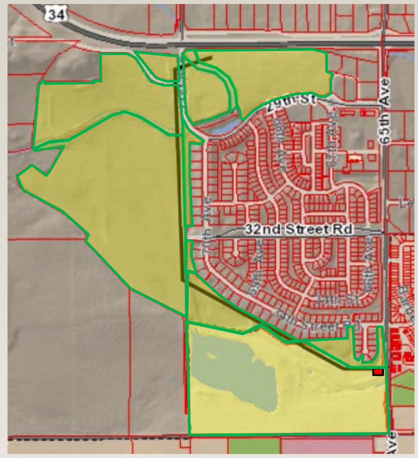


2

Ashcroft Lift Station

Project Details:

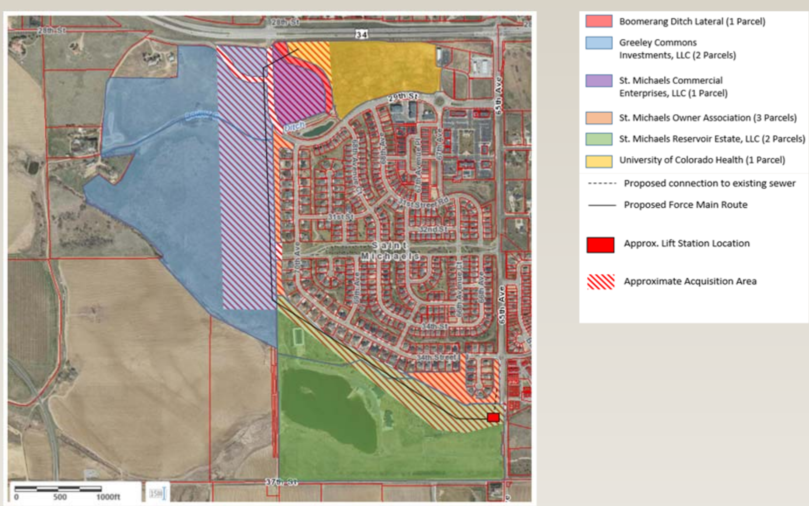
- **Schedule:**
  - **Project Design 2019 to early 2020**
  - **Project Construction 2020**
- **Total Project Cost:**
  - **Approx. $3.8 million**



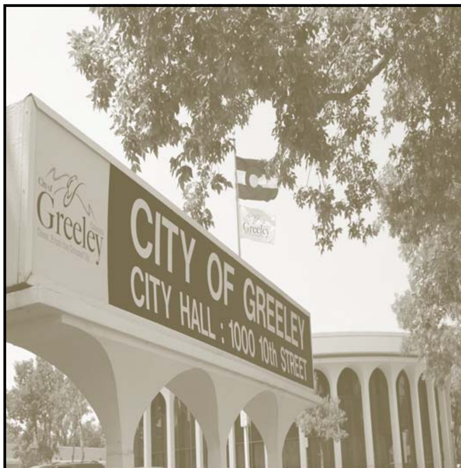
Resolution:

- **30’ wide Permanent Easement**
- **30’ wide Temporary Construction Easement**
- **Property acquisition for Lift Station**

Ashcroft Lift Station



Note: Exact Location of the lift station and force main routing will be determined during design. Easement and property acquisition locations will be determined at that time.



City of Greeley

QUESTIONS?

5

Council Agenda Summary

July 16, 2019

Agenda Item Number 15

Key Staff Contact: Mark Jones, Police Chief, 970-350-9665

Title:
Consideration of a resolution of the Greeley City Council authorizing the Greeley Police Department to allow a fee waiver for the release of criminal justice records

Summary:
City Council considered a citizen request at the June 25th Work Session relating to fee waivers for the search and retrieval of criminal justice records if the records were considered in the public's interest. The request and ensuing dialog related specifically to waivers for criminal justice records of any elected official and any candidate for elected office. Council asked that staff take a look at what other jurisdictions are doing in this regard.

Staff contacted the police departments in Fort Collins, Loveland, Windsor, Longmont and Lakewood and asked about their policy as it relates to waiving fees for reports that involve elected officials or high profile cases. All five of these agencies are consistent with current GPD (Greeley Police Department) practice of not providing free CCJRA records. The only exception was that some agencies occasionally waive fees for people who are confirmed to be indigent. This aligns with statewide training that recommends setting a fee and charging it consistently.

Staff continues to recommend to Council that the existing practice of not granting fee waivers remain in place so all customers are treated equally.

However, should Council's preference be that the City waive fees for criminal justice records it will be helpful to add parameters in terms of a timeframe and about whom the free records apply. This will assist with clarity and managing the impact on staff resources.

For example, if the timeframe for a fee waiver is 30 days after the date of the criminal justice record, the impact to resources would be limited to those 30 days. The number of requests could be unlimited, but the timeframe would narrow the impact. Without a timeframe, GPD will be faced with researching, providing review to redact protected personal identifying information and other confidential information of written and audio/video records. This could potentially apply to decades of information unless a timeframe is added.

Also, it would be helpful to limit the scope by identifying which records qualify for fee waivers. Perhaps it would be limited to reports for which the defendant named is a current/sitting elected official for the City of Greeley, Weld County government, school districts with boundaries within Greeley (Weld SD6 and Weld RE4), and elected officials whose state or federal representation includes Greeley boundaries.

Otherwise, the list can become unwieldy with the number of municipalities, counties, school districts, and other special districts (such as metro districts) throughout the county, state or nation. This broader scope would also create the need to first confirm the individual's status as an elected official or candidate.

The current fee schedule was approved by Council for CCJRA-related records, and no further Council action is needed if Council's desire is to keep the current schedule intact. If fee waivers are desired, the attached Resolution is presented for Council's consideration and includes a timeframe and limited scope as mentioned above.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	(if policy is changed, some experience will be needed before staff can report the impact)
What is the annual impact?	
What fund of the City will provide Funding?	General Fund
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

Legal Issues:
None.

Other Issues and Considerations:
None.

Applicable Council Priority and Goal:
Safety: Manage the health, safety and welfare in a way that promotes a sense of security and well-being for residents, businesses and visitors.

Decision Options:
1) Adopt the resolution as presented; or
2) Amend the resolution and adopt as amended; or
3) Deny the resolution; or
4) Continue consideration of the resolution to a date certain.

Council's Recommended Action:
If Council does not concur with staff's recommendation to maintain the current policy, a motion will be needed to adopt the Resolution.

Attachments:
Resolution

THE CITY OF GREELEY, COLORADO

RESOLUTION _________, 2019

A RESOLUTION OF THE GREELEY CITY COUNCIL AUTHORIZING THE GREELEY POLICE DEPARTMENT TO ALLOW A FEE WAIVER FOR THE RELEASE OF CRIMINAL JUSTICE RECORDS

WHEREAS, C.R.S. Section 24-72-306 authorizes the Greeley Police Department to assess reasonable fees for the actual costs it incurs in searching for, retrieving, and copying criminal justice records for public inspection; and

WHEREAS, C.R.S. Section 24-72-306 also requires that any such fees be established by the City Council; and

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

Section 1. The City Council adopts and allows a waiver of the CCJRA records fee under the following limited circumstances:

a. The request for a fee waiver is made within 30 days of the date of the creation of the criminal justice record; and

b. The subject of the criminal justice record is a current sitting elected member of the City of Greeley City Council, a Weld County Commissioner, or a member of the School Board of Weld School District 6 or Weld RE-4 School District); or

c. The subject of the criminal justice record is a current sitting elected state or federal official whose representation includes an area within City of Greeley.

Section 2. The City Council directs the City Manager to incorporate these provisions for fee waivers under certain limited circumstances into the City's fee schedule for CCJRA records.

Section 3. This Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS ______ day of ____________________, 2019.

ATTEST: THE CITY OF GREELEY, COLORADO

______________________________ ______________________________

City Clerk Mayor

Council Agenda Summary

July 16, 2019

Agenda Item Number 16

Title

Scheduling of Meetings, Other Events

Summary

During this portion of the meeting the City Manager or City Council may review the attached Council Calendar or Worksession Schedule regarding any upcoming meetings or events.

Attachments

Council Meeting/Worksession Schedule
Council Meetings/Other Events Calendar

City Council Meeting Schedule

Date	Description	Staff Contact	
July 23, 2019	Building Code Amendments	Brad Mueller	0.50
Worksession	Quarterly Financial Report	Renee Wheeler	0.50
Meeting	Revenue Assumptions	Renee Wheeler	0.50
August 6, 2019	Ordinance - Intro - Building Code Amendments to the Greeley Municipal Code	Brad Mueller	Consent
Council Meeting	Ordinance - Final - Zoning Map Updates to the Development Code	Brad Mueller	Regular
August 13, 2019	Planning Commission Interviews	Betsy Holder	0.50
Worksession	Industrial Hemp Overview	Ben Snow	0.50
Meeting	CIP, Water & Sewer & Stormwater Budget Presentation	Renee Wheeler	1.00
August 20, 2019	Ordinance - Final - Building Code Amendments to the Greeley Municipal Code	Brad Mueller	Regular
Council Meeting	Board & Commission Appointments	Betsy Holder	Regular
August 27, 2019	2020 Operating Budget Presentation	Renee Wheeler	1.00
Worksession			
September 3, 2019	Ordinance - Intro - Fourth Additional Appropriation	Renee Wheeler	Consent
Council Meeting			
September 10, 2019	2020 Operating Budget Presentation	Renee Wheeler	1.00
Worksession			
September 17, 2019	Ordinance - Intro - Issuance of Certificates of Participation for Fire Stations	Renee Wheeler	Consent
Council Meeting	Ordinance - Final - Fourth Additional Appropriation	Renee Wheeler	Regular
	Board & Commission Appointments	Betsy Holder	Regular
September 24, 2019	2020 Operating Budget Presentation	Renee Wheeler	1.00
Worksession	CDBG Presentation	Ben Snow	0.50
October 1, 2019	Public Hearing to approve 2020 budget and 2020-2024 Consolidated Plan	Renee Wheeler	Regular
Council Meeting	Public Hearing to approve 2020 budget and 2020-2024 Consolidated Plan	Ben Snow	Regular
	Ordinance - Intro &Public Hearing- 2020 Budget Adoption	Renee Wheeler	Regular
October 8, 2019	Operating Budget Follow-up (if necessary)	Renee Wheeler	0.50
Worksession			
October 15, 2019	Ordinance - Final - 2020 Budget Adoption	Renee Wheeler	Regular
Council Meeting	Board & Commission Appointments	Betsy Holder	Regular
October 22, 2019			
Worksession	Quarterly Financial Report	Renee Wheeler	0.50
November 5, 2019	Ordinance - Intro - Dissolution of GGID	Renee Wheeler	Consent
Council Meeting			
November 12, 2019			
Worksession			
November 19, 2019	Ordinance - Final - Dissolution of GGID	Renee Wheeler	Regular
Council Meeting	Board & Commission Appointments	Betsy Holder	Regular
November 26, 2019			
Worksession			
December 3, 2019	Ordinance - Intro - Fifth Additional Appropriation	Renee Wheeler	Consent
Council Meeting			
December 10, 2019			
Worksession			
December 17, 2019	Ordinance - Final - Fifth Additional Appropriation	Renee Wheeler	Regular
Council Meeting	Board & Commission Appointments	Betsy Holder	Regular
December 24, 2019			
Worksession			

July 15, 2019 - July 21, 2019

July 2019						
Su	Mo	Tu	We	Th	Fr	Sa
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August 2019						
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Monday, July 15

Tuesday, July 16

6:30pm - 7:30pm City Council Meeting (1001 11th Avenue)

Wednesday, July 17

7:30am - 8:30am Visit Greeley (Fitzsimmons)

2:00pm - 5:00pm Water & Sewer Board (Gates)

Thursday, July 18

7:30am - 8:30am DDA (Casseday/Smail)

3:30pm - 4:30pm Airport Authority (Casseday/Payton)

Friday, July 19

Saturday, July 20

10:00am - 11:00am City Chat with Councilmember Suniga (TBD)

Sunday, July 21

July 22, 2019 - July 28, 2019

July 2019						
Su	Mo	Tu	We	Th	Fr	Sa
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28	29	30	31			

August 2019						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Monday, July 22

11:30am - 12:30pm Greeley Chamber of Commerce (Gates)

6:00pm - 7:00pm Youth Commission (Smail)

Tuesday, July 23

8:00am - 8:30am Promotional Pinning - Alvord (Nusbaum Room, FIre Station No. 1, 1155 10th Avenue) - Council Master Calendar

5:00pm - 6:00pm City Council Worksession (1001 11th Avenue)

Wednesday, July 24

Thursday, July 25

Friday, July 26

Saturday, July 27

Sunday, July 28

July 29, 2019 - August 4, 2019

July 2019						
Su	Mo	Tu	We	Th	Fr	Sa
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Monday, July 29

Tuesday, July 30

Wednesday, July 31

7:00am - 8:00am Upstate Colorado Economic Development (Gates/Hall) (Upstate Colorado Conference Room) - Council Master Calendar

Thursday, August 1

7:00am - Poudre River Trail (Hall)

3:30pm - IG Adv. Board (Smail)

6:00pm - MPO (Gates/Casseday)

Friday, August 2

Saturday, August 3

Sunday, August 4

August 5, 2019 - August 11, 2019

August 2019

Su	Mo	Tu	We	Th	Fr	Sa
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September 2019

Su	Mo	Tu	We	Th	Fr	Sa
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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Monday, August 5

Tuesday, August 6

6:30pm - 7:30pm City Council Meeting (1001 11th Avenue)

Wednesday, August 7

Thursday, August 8

Friday, August 9

Saturday, August 10

Sunday, August 11

August 12, 2019 - August 18, 2019

August 2019

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September 2019

Su	Mo	Tu	We	Th	Fr	Sa
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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Monday, August 12

Tuesday, August 13

5:00pm - 6:00pm City Council Worksession (1001 11th Avenue)

Wednesday, August 14

Thursday, August 15

7:30am - 8:30am DDA (Casseday/Smail)

3:30pm - 4:30pm Airport Authority (Casseday/Payton)

Friday, August 16

Saturday, August 17

10:00am - 11:00am City Chat with Councilmember Suniga (TBD)

Sunday, August 18

Council Agenda Summary

July 16, 2019

Agenda Item Number 17

Title

Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and at any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements and ordinances

Council's Recommended Action

A motion to approve the above authorizations.

Council Agenda Summary

July 16, 2019

Agenda Item Number 18

Title
Adjournment