

- 1 - Agenda, BOCC regular meeting Aug 15 2023
- 2a - BoHS - Agenda for Aug 15, 2023
- 2b - BoHS Minutes approval
- 2c - BoHS - Amendments to GC DHHS Comprehensive Civil Rights Plan
- 2d - BoHS - Universal Pre-K program update
- 3 - consent 1 - Alcohol Bev Lic 26-34997-0000, Garlic Mikes
- 3 - consent 2 - Alcohol Bev Lic 03-01981, Inn at Arrowhead
- 4 - BOCC Calendar Schedule, Aug 15, 2023
- 5 - Draft, BOCC Minutes of July 18, 2023
- 6 - consent 1 - Acceptance of Appt for US Fish and Wildlife, to GBSGSC, N Darnell
- 6 - consent 2 - CM consent to DocuSign - Standard Agreement - Owner and Contractor, Adena Corp
- 6 - consent 3 - 2 Provider Agreements with RE1J School District, Juv Svcs Clinical svcs
- 6 - consent 4 - Development Improvements Agreement, Driveway Plan for Leigh Marie LLC
- 6 - consent 5 - Ack of CM Signature, Assumption of Fire Control Duties
- 6 - consent 6 - Ack of CM Signature, GMUG Land Use Agreement for Helibase at Airport
- 6 - consent 7 - Ack of CM Signature, Forest Svc Land Use Agreement for Fairground facilities
- 6 - consent 8 - USDA FS Application for Transportation.. amended Kebler trailhead permits
- 6 - consent 9 - CDHS Behavioral Health grant contract
- 6 - consent 10 - Sawtooth Phase 2 Design-Build Agreement
- 7 - Kebler Pass Trailhead, Winter Permit Parking
- 8 - At-Large Appointment to STOR
- 9 - Lot Cluster LUC-23-00029, Gage Pitkin Holdings LLC
- 10 - Townhome Plat Amendment - LUC-23-00034, Basin Real Estate Holdings LLC

GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING AGENDA

DATE: Tuesday, August 15, 2023

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PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse
(REMOTE OPTION BELOW)

GUNNISON/HINSDALE BOARD OF HUMAN SERVICES REGULAR MEETING:

8:30 am • [\(See separate agenda\)](#)

GUNNISON COUNTY LOCAL LIQUOR LICENSING AUTHORITY:

- 9:20 am • Call to Order
- Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
 1. Approval for Alcohol Beverage License #26-34997-0000; Tre Amici Corp dba Garlic Mike's; 9/14/2023 - 9/14/2024
 2. Approval for Alcohol Beverage License #03-01981; Amie Mountain Lodge LLC dba Inn at Arrowhead; 10/15/2023 - 10/15/2024
 - Adjourn

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS REGULAR MEETING:

- 9:21 am • Call to Order; Agenda Review
- Scheduling
 - Minutes
 1. July 18, 2023 Regular Meeting
 - Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
 1. Acceptance of Appointments; US Department of the Interior, US Fish and Wildlife Service; Nathan Darnell as Alternate Member to the Gunnison Basin Sage-grouse Strategic Committee; Finishing term ending 2/1/2024 for prior Alternate Creed Clayton
 2. Authorization for County Manager's signature on final DocuSign; Standard Agreement and General Conditions Between Owner and Constructor; Adena Corporation; for renovation of the Gunnison County Division 3 Shop (Crested Butte); Effective date of signing; \$1,385,882
 3. Approval for two (2) Provider Agreements; RE1J School District and Gunnison County Juvenile Services Department; for 1) Clinical Case Managing Coordinator services (\$25,000), and 2) Direct Services through SEL Coordinators (\$25,000), Family Advocacy Support Team (FAST) and Wraparound Services, and FAST Review Team (\$15,000); 8/15/2023 - 6/30/2024
 4. Approval for Development Improvements Agreement for Driveway Plan; Leigh Marie LLC, 7777 CR 887, Gunnison, Colorado
 5. Acknowledgement of County Manager's signature; Assumption of Fire Control Duty to Colorado Department of Fire Prevention and Control (DFPC); Effective 7/27/2023
 6. Acknowledgement of County Manager's signature; USDA Forest Service Grand Mesa-Uncompahgre-Gunnison (GMUG) National Forests Emergency Facilities & Land Use Agreement Number 1282X923K4027; Gunnison-Crested Butte Regional Airport; for use of land/facilities as a helibase during Lowline Fire; Effective 7/29/2023; \$100 per day of use
 7. Acknowledgement of County Manager's signature; USDA Forest Service At-Incident Management Support (AIMS) Branch Emergency Facilities & Land Use Agreement Number 1202RZ23K4082; Gunnison County Fairgrounds; for use of fairground land/facilities as a Base Camp during Lowline Fire; Effective 7/27/2023; \$600 per day of use, up to \$50,000

*NOTE: This agenda is subject to change, including the addition of items up to 24 hours in advance or the deletion of items at any time. All times are approximate. The County Manager and Deputy County Manager's reports may include administrative items not listed. Regular Meetings, Public Hearings, and Special Meetings are recorded and **ACTION MAY BE TAKEN ON ANY ITEM**. Work Sessions are not recorded and formal action cannot be taken. For further information, contact the County Administration office at 641-0248. If special accommodations are necessary per ADA, contact 641-0248 or TTY 641-3061 prior to the meeting.*

GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING AGENDA

DATE: Tuesday, August 15, 2023

Page 2 of 2

PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse
(REMOTE OPTION BELOW)

8. Approval for Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property; USDA Forest Service; Gunnison County Public Works; requesting changes to Kebler Pass Winter Trailhead permits
9. Approval for Colorado Department of Human Services, Behavioral Health Administration Contract 24 IBEH 183800; for prevention of people with behavioral health disorders becoming involved or further penetrating into the criminal justice system; Effective date of signing - 6/30/2024; \$721,511
10. Approval for Sawtooth Phase 2 Design-Build Agreement; Fading West Construction LLC; for total design, engineering, permitting and construction of two buildings with 15 apartments in each; Effective date of signing; \$337,870

COUNTY MANAGER'S REPORTS

1. National Forest payment; Title I Allocation

- 9:25
- Kebler Pass Trailhead; Winter Permit Parking and Staff Recommendations
- 9:40
- Gunnison County Boards and Commissions; At-Large Appointment to the Sustainable Tourism and Outdoor Recreation (STOR) Committee
 - **BREAK**
- 9:50
- Lot Cluster; Western Star No. 4 and 5 Lode Mining Claims, U.S. Survey No. 8138, Quartz Creek Mining District; Gage Pitkin Holdings, LLC; LUC-23-00029
- 9:55
- Townhome Plat Amendment; LUC-23-00034; Basin Real Estate Holdings, LLC; Basin Mountain Village – Phase 2; Situated within Section 7, Township 14 South, Range 85 West of the 6th Principal Meridian, Gunnison County, Colorado
- 10:00 am
- **Unscheduled Public Comment:** Limit to 5 minutes per item. No formal action can be taken at this meeting.
 - **Commissioner Items:** Commissioners will discuss among themselves activities that they have recently participated in that they believe other Commissioners and/or members of the public may be interested in hearing about.
 - **Adjourn**
 - **Light refreshment / Celebration of Gunnison and Hinsdale County Awards** (*presented earlier during the Board of Human Services regular meeting*)

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> prior to the meeting.

ZOOM MEETING DETAILS:

Join Zoom Meeting: <https://us02web.zoom.us/j/82753657556?pwd=MjNDbTZHTFNRVdDemZjdC91aVBIZz09>

Meeting ID: 827 5365 7556

Passcode: 471302

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GUNNISON/HINSDALE BOARD OF HUMAN SERVICES
Meeting Agenda for August 15, 2023
County Commissioners' Meeting Room
200 E. Virginia Avenue; Gunnison, CO 81230
(Remote Option, Below)

- Call to Order at 8:30 am

- Agenda Review

- Minutes Approval:
 - October 18, 2022 Regular Meeting
 - December 20, 2022 Regular Meeting
 - February 21, 2023 Regular Meeting
 - April 18, 2023 Regular Meeting

- Approval for Amendments to Gunnison County Department of Health and Human Services Comprehensive Civil Rights Plan; Colorado Department of Health Care Policy & Financing (HCPF) approved edits

- Celebration and Presentation of Awards for Gunnison and Hinsdale Counties by Colorado Department of Human Services (*Light refreshments to follow at the end of the Board of County Commissioners regular meeting*)

- Program Updates:
 - Universal Pre-K and the Local Coordinating Organization (LCO)

- Employee Recognition; Marilyn Cheever, Child & Family Services Manager

- Next Meeting: October 17, 2023

- Adjourn at 9:20

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> prior to the meeting.

ZOOM MEETING DETAILS:

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Meeting ID: 827 5365 7556

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AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Minutes Approval: October 18, 2022 Regular Meeting

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

For your review, the minutes for the Gunnison/Hinsdale Board of Human Services regular meetings of: 1) Oct 18, 2022; 2) Dec 20, 2022; 3) Feb 21, 2023; and 4) Apr 18, 2023.

Fiscal Impact:

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/15/2023

**GUNNISON/HINSDALE BOARD OF HUMAN SERVICES
MEETING MINUTES
October 18, 2022**

The October 18, 2022 meeting of the Gunnison/Hinsdale Board of Human Services was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present, either in person or via Zoom, were:

Jonathan Houck, Chairperson [ABSENT]
Roland Mason, Acting Chair
Liz Smith, Commissioner
Greg Levine, Hinsdale Co. Commissioner [REMOTE]

Joni Reynolds, Assistant County Manager for
Health, Human and Safety Services
John Cattles, Assistant County Manager
Melanie Bollig, Clerk to the Board
Other Persons Present as Listed in Text

CALL TO ORDER: Acting Chair Roland Mason called the meeting to order at 8:30 am, and noted for the record that Commissioner Houck would not be able to attend the meeting that day.

AGENDA REVIEW: There were no changes to the agenda.

MINUTES APPROVAL:

1. **June 21, 2022 Meeting Minutes – Moved** by Commissioner Smith, seconded by Commissioner Mason to approve the Gunnison/Hinsdale Board of Human Services meeting minutes, as presented. Motion carried.

CONSENT AGENDA: Moved by Commissioner Smith, seconded by Commissioner Levine to approve the Consent Agenda, as presented. Motion carried.

1. Approval for Intergovernmental Agreement and Statement of Work; Colorado Department of Human Services (CDHS); Gunnison/Hinsdale Board of Human Services; for consistent procedure and control over leasing computing equipment, software, service, and accessories through CDHS; Eff Date 11/01/2022, three-year lease cycle; \$23,403

PROGRAM UPDATES:

1. **Child Care Assistance Program (CCAP)** – Community Health Manager Margaret Wacker was present in the room to give a CCAP update to the Board; CH Mgr Wacker then introduced Cheryl Smejkal, also present in the room, as the new CCAP coordinator, stating that they were very happy to have her on board.

Next, CH Mgr Wacker presented the CCAP update, noting for the Board program changes in eligibility and criteria for payment. She outlined that the budget for FY 2023 would be increasing to \$299,802, and further explained that they were applying to the State to go off of an eligibility freeze, as currently only families who qualified for Temporary Assistance for Needy Families (TANF) or families with an open child welfare case could be added. They were hoping that Gunnison County could go from a freeze to a waitlist, prioritizing which families could go onto CCCAP assistance as soon as possible.

Commissioner Mason asked what was the reason for the freeze, and CH Mgr Wacker stated that they had been over-budget for a couple of years in a row, and so they went into a waitlist and then a freeze. Their petition to the State was to lift the freeze and be able to return to the waitlist process.

For Hinsdale County, CH Mgr Wacker reported a FY 2023 budget of \$25,594, a small increase over last year's budget. She noted that there had never been a freeze in Hinsdale County; instead, Hinsdale followed an open enrollment process.

CH Mgr Wacker included statistics on the current families and cases served in combined Gunnison and Hinsdale Counties for August 2022. She reported 23 current cases in August, with 34 children being served, and stated that for October 2022 they currently had 18 current cases, down from August.

The Board briefly discussed the number of families being served in both Gunnison and Hinsdale counties. CH Mgr Wacker pointed out that, even as families are able to come off a waitlist, they do not necessarily receive assistance right away as there are no childcare slots available for them at the time. At the request of ACM Reynolds, Ms. Wacker also outlined the difficulty in keeping teachers and then went over the stipends now offered as incentives for shoring up early childhood educators' retention rates.

2. **Pre-K (Coordinating Organization)** – Community Health Manager Margaret Wacker also presented this update. She highlighted that they were currently having a series of planning meetings with Gunnison and Hinsdale County stakeholders in order to begin planning for the Universal Pre-K roll out; October 13th had been the most recent meeting. She went over timing, stating that the Community Plan was due on October 31st – even though they did not know provider rates and requirements yet – and the Parent Portal for the application part was slated to open in January 2023. The Universal Pre-K program was slated to start in the Fall of 2023, for the 2023/2024 school year.
3. **Family First Implementation** – Child & Family Services Manager Marilyn Cheever presented the federal program, Family First, which was implemented on October 1st, 2022. She highlighted some of the changes, including needing to try and keep the children with their families if at all possible;

putting services in place within their homes to keep them with family here. Otherwise, they try to reach out to other family members who might be available and place them in as close proximity as possible. She noted two adolescents who had been placed with other family and were doing well now .

4. **Parenting Programs** – Child & Family Services Manager Marilyn Cheever explained to the Board that there are few services in Gunnison which are in the clearing house for the federal government – these types of programs will provide some reimbursement to the state if families are enrolled in them. She listed those that were, including Nurse Family Partnership (for very young children, usually birth up to 2 years), and Parents as Teachers, a program which Juvenile Services Director Kari Commerford is currently working on getting started. Ms. Cheever stated that several in the community would be going through training for the Parents as Teachers program; the program itself seeks to keep parents involved for up to two years, and would focus on families with children who were three to five years in age. She also noted an agency out of Denver which is providing multi-systemic therapy (MST) for families with older children; the program encourages parents whose children run away to get the aid of law enforcement and have them bring the child back home, in order to work on issues and resolve reasons why the child was leaving the home. CFS Mngr Cheever stated that these programs emphasize support for the parents in their parenting and coping skills, as often it is the parent who needs to change what they are doing, rather than the child.
5. **Child Welfare Services** – Child & Family Services Manager Marilyn Cheever reported on Colorado’s Chafee program, which provides assistance to youth currently and formerly in foster care – helping them successfully transition into adulthood. The state had recently added legislation requiring every county to offer the Chafee program, and Ms. Cheever highlighted that there was housing available in Montrose for those who would be aging out of the child welfare system; staff were available on campus to help youths with hurdles such as getting their GEDs or searching for jobs. Ms. Cheever noted that they will be working with this group to help two adolescents under Gunnison County’s care begin to work on transitioning through the Chafee program.

ACM Joni Reynolds briefly outlined for the Board some of the challenges and gaps that have been exposed during the implementation of the Family First program, such as: past services for families no longer available with a good substitute; lack of services available in rural communities; amount of time it takes to get things approved at the federal level, and; tightening of federal funds available to the state.

Commissioner Smith asked what allowances were being made for families with learning and mental disabilities. CFS Mngr Cheever answered that, if this is identified for any of her families, she would reach out to state experts to see what can be done to help support that family as much as possible. ACM Reynolds added that they also have some support in the clinical services area, with a nursing team to help children with overall health care, chronic issues and disabilities. She noted that this would be more case management, in trying to link these families with proper parental support as well as the health services.

NEXT MEETING: December 20, 2022. The Board confirmed December 20, 2022 as the next meeting date for the Gunnison/Hinsdale Board of Human Services.

ADJOURN: Acting Chair Mason adjourned the Gunnison/Hinsdale Board of Human Services meeting at 9:18 am.

Minutes Prepared By:

Melanie Bollig, Clerk to the Board

Minutes Approved August 15, 2023:

Liz Smith, Commissioner
On Behalf of Chairperson Houck (Absent)

**GUNNISON/HINSDALE BOARD OF HUMAN SERVICES
MEETING MINUTES
December 20, 2022**

The December 20, 2022 meeting of the Gunnison/Hinsdale Board of Human Services was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present, either in person or via Zoom, were:

Jonathan Houck, Chairperson
Roland Mason, Commissioner [REMOTE]
Liz Smith, Commissioner
Greg Levine, Hinsdale Co. Commissioner [ABSENT]

Joni Reynolds, Assistant County Manager for
Health & Human Services
Matthew Birnie, County Manager
Melanie Bollig, Clerk to the Board
Other Persons Present as Listed in Text

CALL TO ORDER: Chairperson Houck called the meeting to order at 10:17 am.

AGENDA REVIEW: There were no changes to the agenda.

MEMORANDUM OF UNDERSTANDING BETWEEN GUNNISON COUNTY, HINSDALE COUNTY, AND PROWERS COUNTY; HOT LINE CALLS FOR CHILD WELFARE AND ADULT PROTECTION SERVICES; 1/01/2023 TO 12/31/2023: Assistant County Manager for Health, Human, and Safety Services Joni Reynolds explained that this agreement was for the call center to cover incoming hotline calls for Child Welfare and Adult Protection in Hinsdale and Gunnison Counties. She noted that they are wanting the Chair for the Gunnison/ Hinsdale Board of Human Services to be the one who signs.

ACM Reynolds went on to say that they cover a relatively limited amount of calls for our joint communities; however, they cover after hours and weekends for us, as they do for the whole state. It is a preferred service because those who answer have been trained to ask the correct questions so that our team can have the base information to follow up with.

With no questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Mason, to approve the Memorandum of Understanding between Gunnison/Hinsdale Board of Human Services and Prowers County for hot line calls for Child Welfare and Adult Protection Services, from January 1st, 2023 to December 31, 2023. Motion carried unanimously.

GUNNISON / HINSDALE DHS FINANCIAL REPORT – PERIOD ENDING OCTOBER 31, 2022:

Senior Accountant Kelly Weak was present in the room to give a report. She explained that the budget was at 72% through October; they were usually somewhere around 82% by this time of year, so it was somewhat under budget. SA Weak then noted that part of the county administrative expenses were still being paid for by continued pandemic funding, so this may account for the lower figures. Further, she pointed out how amounts for food assistance in the county have increased dramatically. In 2019, prior to the pandemic, food assistance totaled \$1.3 million; in 2020 it went up to \$2.4 million; for 2022, in October it was already at \$2.6 million – projected to be over double what it was in 2019.

ACM Joni Reynolds observed that the federal public health emergency – which had put a lock on eligibility for those who had applied and been eligible in 2020 – was set to be lifted shortly, somewhere around January 2023. At that point, as renewals came due per each family, the county would be going back to determining eligibility for benefits, which would definitely impact many in the system. Commissioner Mason asked if there might be some change in eligibility guidelines to account for inflation and higher costs of food and energy. ACM Reynolds affirmed that there would be state legislation introduced in January that would seek to adjust for rising costs. The Board then briefly discussed with ACM Reynolds what gaps in funding the county might expect to see.

After this discussion it was **moved** by Commissioner Smith to approve the Gunnison/Hinsdale DHS Financial Report for the period ending October 31st, 2022. Seconded by Commissioner Mason. Motion carried unanimously.

BOARD OF HUMAN SERVICES PLANNING: Chairperson Houck stated that this planning has typically centered around what topics the Board would want to discuss, in terms of drafting an agenda for the next year. ACM Reynolds replied that she would be reaching out to each of them for input on what they would like to see on the agenda. She shared some of the financial items which would be upcoming in future reports, including state assistance details and a possible income for supplemental environmental projects, which she promised to share as more information became available.

Chairperson Houck asked if there were any questions or comments from the Board. Commissioner Smith asked about where Universal Pre-K fit within the boards. ACM Reynolds replied that this did fit in well with the regional area of the Gunnison and Hinsdale Counties Board of Human Services. Commissioner Smith and ACM Reynolds discussed for several minutes how the roll-out has been very unclear, and how they could best communicate the details of it to their communities. ACM Reynolds agreed with Commissioner Smith about advocating for additional information from the state in a timely manner, but felt confident that her staff would be able to work through this, commenting that, if anything, the pandemic had strengthened their skills for this.

Chairperson Houck then asked, in wrapping up the meeting, if there was anything else for the Board's consideration. He thanked ACM Joni Reynolds for all her extra work throughout the pandemic up to now. ACM Reynolds stated that her dedicated team had been doing an incredible job in integrating from crisis back to normalizing for their community programs, noting that this "normalizing" will take place well into

the next year. Commissioner Houck, Commissioner Smith, and ACM Reynolds discussed briefly some of the upcoming state legislative issues. ACM Reynolds highlighted that one of the biggest challenges was the need for gaining stability in funding – crucial to giving longevity to the talent they acquire.

ADJOURN: Chairperson Houck adjourned the Gunnison/Hinsdale Board of Human Services meeting at 10:41 am.

Minutes Prepared By:

Melanie Bollig, Clerk to the Board

Minutes Approved August 15, 2023:

Jonathan Houck, Chairperson

DRAFT

**GUNNISON/HINSDALE BOARD OF HUMAN SERVICES
MEETING MINUTES
February 21, 2023**

The February 21, 2023 meeting of the Gunnison/Hinsdale Board of Human Services was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present, either in person or via Zoom, were:

Jonathan Houck, Chairperson	Joni Reynolds, Assistant County Manager for Health, Human and Safety Services
Liz Smith, Commissioner	Matthew Birnie, County Manager
Laura Puckett Daniels, Commissioner	Melanie Bollig, Clerk to the Board
Greg Levine, Hinsdale Co. Commissioner [REMOTE]	Other Persons Present as Listed in Text

CALL TO ORDER: Chairperson Houck called the meeting to order at 8:30 am.

AGENDA REVIEW: There were no changes to the agenda.

DRAFT; 2023 MEETING PLAN: Assistant County Manager for Health, Human, and Safety Services Joni Reynolds was present in the room to go over the plan and answer any questions the Board might have. She briefly went over the 2023 Meeting Plan draft with the Commissioners, and noted that she had set up the topics to be a complement to the Board of Health schedule for 2023.

Commissioner Smith asked about timing for the Universal Pre-Kindergarten updates, and noted that they still had an enrollment timing gap in question. ACM Reynolds replied that they were working on this, and there would be more to come in their April report, scheduled under Early Childhood Services program review and policies.

PROGRAM UPDATES:

1. **Public Assistance Program Changes; Post Public Health Emergency.** Health & Human Services Deputy Director Brad Wheaton presented this report. He started by advising that starting in March 2023, families will stop receiving the emergency, or maximum, allotments for their eligible household members and will go back to qualifying under calculated benefits. This may have a large impact on several families in the community. He stated that they were presently working with area food assistance groups for give aid to these families.

For April 2023, DD Wheaton reported that families' eligibility for Medicaid will also be going back to qualifying under calculated benefits. He explained that his team has been working for a year now to prepare families for this transition off pandemic benefits, and further stated that he believed people are now aware but are not ready to experience the drop; some will see quite a drastic drop in benefits.

Economic Security Supervisor Brian Gage, also present in the room, estimated that around 2,000 will be affected in Gunnison County. DD Wheaton also noted that state funding will be utilized in order to get this information out to the public, in tandem with a media packet and hotline number sent to them by the state.

ESS Brian Gage, upon request from ACM Reynolds, then explained the state delay in cutting off benefits in February 2023. He explained to the Board that this delay helped give families a real "heads up" that this will definitely happen in March 2023. It would also let them know what their calculated benefit would be.

2. **Funding Overview.** ACM Joni Reynolds went over funding graphs she had prepared for the Board, first showing 2023 FY funding percentages for Human Services Program 01 Funding. This included Senior & Adult programs (Aging and Disability Resources Center; Transportation & Education) and Child and Family Health programs (Nurse Family Partnership Program; Nurturing Parenting Program; Early Childhood Council; Multicultural Resources; and Family Planning). Funding sources were identified as: Property Tax, Federal, State, Other Government, Fees, Grants, Transfers In, and Miscellaneous sources, with the State being the largest source of funding at 79%.

The next graph was 2023 FY Human Services Program 03 Funding, which included Senior & Adult Programs (Adult Protection), Child and Family Services (Child Welfare; Core Services; Foster Care Program; Adoption Services; SB94; and Child Support Services), and Economic Security Programs (Childcare Assistance; Medical Assistance; Food Assistance; Colorado Works/TANF Program; Community Service Block Grant; and other Assistance programs, i.e. LEAP, OAP, EOC). Funding sources were identified in the same categories and for 01 Funding, with State again being the largest contributor with 59% of the total funding.

A third graph was 2023 FY Public Health Program 04 Funding, which included Public Health Programs (Program Support; Women's Wellness Connection; Women, Infant & Children; Immunizations; West Central Partnership; Tobacco Education; Emergency Preparedness & Response; and Prenatal). This again identified the same sources for funding as in the previous two graphs, with State the largest contributor at 75% of total funding.

Commissioner Puckett Daniels asked about the differences in Program 01, 03, and 04 funding. CFO Perry Solheim, also present in the room for the meeting, explained that these codes are for accounting, and gave examples of 01 referencing general funds, and 03 referencing public help.

He noted that these were references to where the funding was coming from and had developed over time for accounting purposes.

ACM Reynolds noted the graphs' differences in funding totals between 2021 and 2022, and explained the decreased funds in 2022 as a step down in COVID funding.

Commissioner Smith asked if the 2023 funding was sufficient to adequately provide the needed services. ACM Reynolds affirmed that they were feeling a "pinch" from decreased state and some local funding; they also had long-term staff whose cost of living increases had not been adjusted into their budgets.

LEGISLATIVE UPDATES:

- 1. Current Status on Key Bills.** ACM Joni Reynolds reviewed some of the key bills related to Health and Human Services with the Board, and noted that next Friday, 2/24, would be an overall meeting with Colorado Counties Inc (CCI) regarding Health and Human Services legislation. She noted further that she also has a weekly meeting call with other Health and Human Services directors, separate from CCI.

Key bills ACM Reynolds reviewed with the Board included:

- HB 23-1142 - Information of person reporting child abuse. ACM Reynolds explained that this bill sought to deal with anonymous child service reports made with malice. In seeking to eliminate reports of this nature, the bill allows for a process which would use identifying information with the report. The Board, CM Birnie, and CA Matt Hoyt discussed the concern that, if this bill passed, it might result in a lack of referrals. ACM Reynolds advised that no position had been taken by CCI yet.
- HB 23-1160 –TRAILS system requirements. The bill is requiring changes in the electronic documentation system, in order to make it more efficient. ACM Reynolds reported that there would need to be a \$53 million upgrade, and she felt this unfunded mandate would make the bill impossible to pass.
- HB 23-1024 – Relative and kin placement of a child. ACM Reynolds advised that the CCI position was to amend this bill, because of numerous new requirements regarding: appeals, help if resources are a barrier, and getting relatives more involved in planning. While it would put a lot of requirements on the courts for what they can and cannot do, it also sought to give kin more rights. The Board and CA Hoyt discussed other potential issues, such as visitation rights. When asked, ACM Reynolds stated that she felt this bill was trying to accomplish too much.
- HB 23-1043 – A CCI priority bill involving child emergency and continued placement with relatives or kin. ACM Reynolds noted that this bill clarifies how background checks and fingerprints are to be done. She advised that she did support this bill.

NEXT MEETING: April 18, 2023. The Board confirmed April 18, 2023 as the next meeting date for the Gunnison/Hinsdale Board of Human Services.

ADJOURN: Chairperson Houck adjourned the Gunnison/Hinsdale Board of Human Services meeting at 9:05 am.

Minutes Prepared By:

Melanie Bollig, Clerk to the Board

Minutes Approved August 15, 2023:

Jonathan Houck, Chairperson

GUNNISON/HINSDALE BOARD OF HUMAN SERVICES
MEETING MINUTES
April 18, 2023

The April 18, 2023 meeting of the Gunnison/Hinsdale Board of Human Services was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present, either in person or via Zoom, were:

Jonathan Houck, Chairperson
Liz Smith, Commissioner
Laura Puckett Daniels, Commissioner
Greg Levine, Hinsdale Co. Commissioner [REMOTE]

Joni Reynolds, Assistant County Manager for
Health, Human and Safety Services
Matthew Birnie, County Manager
Melanie Bollig, Clerk to the Board
Other Persons Present as Listed in Text

8:36 to 9:24 CALL TO ORDER: Chairperson Houck called the meeting to order at 8:36 am, and noted for the record that Hinsdale Commissioner Greg Levine was not able to join remotely via Zoom, so would be attending the meeting via phone call.

AGENDA REVIEW: There were no changes to the agenda.

FINANCIAL UPDATE: Finance Senior Accountant Kelly Weak was present in the room to give the Gunnison/Hinsdale DHS Financial Report for the period ending December 31, 2022. She reported that they had finished within 90% of last year's budget, which was good news. She went on to give a brief overview of the totals spent, noting state allocations and the portions for Gunnison County and Hinsdale County.

Assistant County Manager for Health, Human, and Safety Services Joni Reynolds noted that federal SNAP benefits will probably have the largest "cliff" in decreasing services, and she added that all of the benefits have now shrunk back to allocation based upon the applicant's income, rather than the maximum allocations being allowed throughout the pandemic, up until March 2023.

With no further questions from the Board, it was **moved** by Commissioner Houck, seconded by Commissioner Smith, to accept the Financial Update and authorize the chair's signature on the document. Motion carried unanimously.

PROGRAM UPDATES: Early Childhood Services. Present in the room to give an update was Health and Human Services Community Health Manager Margaret Wacker, and Early Childhood Services Supervisor Lana Athey.

CH Mngr Wacker began by focusing on a report for the Gunnison/Hinsdale Early Childhood Council. She introduced those in the staff as: Quality Improvement Coach and Navigator Corrine Jaeger; Early Childhood Resource Navigator Kimberley McNamara; Early Childhood Outreach and Navigator Mayte Burton; Infant and Toddler Care Coach and Trainer Kristen Peterson, and Supervisor Lana Athey. She then thanked Gunnison Country for their contributions in support of the Early Childhood Council.

CH Mngr Wacker briefly went over data related to child census data for both Gunnison and Hinsdale Counties. ECS Supervisor Lana Athey also presented data on current progress towards Universal Preschool in both counties, highlighting that they had advocated strongly at the state-level for the state to make an eligibility allowance for those children born between the August 1st (state cutoff date for eligibility) and October 1st (local county cutoff date for eligibility). She reported that they had been able to win the allowance, and based on numbers of families who have applied, all so far should be able to access a slot.

The Board discussed for several minutes with ECS Supervisor Athey various topics surrounding the implementation of Universal Preschool, including: a) families' process for applying for and finding a preschool site match; b) numbers of hours that can be selected and coordination of care; c) determining factors for site chosen; d) percentage of eligible households who have applied; and e) how many the existing funding allows for.

After this discussion, CH Mngr Wacker continued with data showing: a) 2021 & 2022 area preschool enrollment numbers vs. licensed capacity; b) current wait lists for the local preschools; and c) early childhood workforce turnover rates and issues.

ECS Supervisor Athey covered data gleaned from the comparison of a 2021 and 2022 workforce survey, in which Early Childhood Educators (ECE) were asked, "How long have you been in the ECE field?"

CH Mngr Margaret Wacker outlined the statutory requirements of the Early Childhood Council in Colorado, its mandatory stakeholders, and the focus areas for the council: early learning; family support and parent education; and health and well-being. She advised that the Gunnison Hinsdale Early Childhood Council (GHECC) would be going through a strategic planning process in 2023, to update their strategic plan for 2024-2027.

ECS Supervisor Lana Athey then briefed the commissioners on local initiative to address early childhood workforce issues. She explained that they had realized during COVID that they did not have a sick leave program, so this was started in August 2020, with a large portion of the funding coming from one-year grant opportunities – grants which are not expected to remain available in the future. She stated that if the program were to continue, the annual sick leave program would cost an average of \$28,000. Other programs offered which strive to help with staff retention included: early childhood educator EC Credential Stipend Program (a program that provides a modest award to EC educators based on their level of Early Childhood credentials); and early childhood Food Boxes for Teachers (a program in partnership with Mountain Roots, which provides food boxes to 80+ early childhood teachers and home providers on a monthly basis). Other local initiatives have involved training, including the Family, Friend, and Neighbor

Caregiver Initiative (providing monthly trainings covering various childcare topics – from CPR to Nurturing the Young Child Conference). Programs currently serving local families include a diaper program and tuition assistance program (for families facing hardship).

ECS Supervisor Athey and CH Mngr Wacker highlighted the ways in which Gunnison County has supported planning for Early Childhood within their strategic plan as well, and thanked the commissioners for this support.

The commissioners observed how the investment is fully seen in improved outcomes, and also noted the recent stressors for both early childhood educators and families alike. They also asked ECS Supervisor Athey what she would like to see in terms of future support from the commissioners, and she requested that they consider childcare and education in the workforce support funding earmarked to come from Local Marketing District tax revenues. Ways to achieve more sustainable funding for early childhood services were also discussed.

LEGISLATIVE UPDATES:

- 1. Current Status on Key Bills.** ACM Joni Reynolds informed that the Board that the state's Behavioral Health Administration (BHA) leadership had changed abruptly; the Executive Director was gone and the Executive Director of the Colorado Department of Human Services (CDHS) would be the interim director. A senior executive team would be making leadership decisions for CDHS during this time. ACM Reynolds that they should be watching to see what kind of impact this will have across the board.

ACM Reynolds reviewed with the Board included:

- a) Large amount of child welfare bills introduced in 2023. ACM Reynolds noted that there will be inter-session review committees, or working groups, looking at current welfare statutes, and seeing what changes are needed for 2023-2024, and 2024-2025, in order to prevent another "hodgepodge" of hasty child welfare bills being introduced, as had been seen for 2023's legislative season. She added that there were still a couple of these bills making their way through – one centered around emergency child welfare intervention, which she found important for regulating procedures, and another bill adding justice involvement, which CCI along with other partners were opposing.
- b) Other bills of note. ACM Reynolds stated that there were a couple of bills making their way through which centered around parents' and grandparents' time, neither of which would change Human Services practices. Another bill focused on updates to the Human Services administration by replacing a citizens' review panel with a state-level office for grievances. The final two bills ACM Reynolds highlighted were public health bills. One involved community benefit for non-profit hospitals and the other would seek to authorize municipalities to establish opioid abuse prevention centers.

NEXT MEETING: June 20, 2023. The Board confirmed June 20, 2023 as the next meeting date for the Gunnison/Hinsdale Board of Human Services.

ADJOURN: Chairperson Houck adjourned the Gunnison/Hinsdale Board of Human Services meeting at 9:24 am.

Minutes Prepared By:

Melanie Bollig, Clerk to the Board

Minutes Approved August 15, 2023:

Jonathan Houck, Chairperson

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Amendments to Gunnison County Depart

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: HCPF and Gunnison County HHS

Term Begins:

Term Ends:

Grant Contract #:

Summary:

This is the final and HCPF approved Civil Rights Policy for HHS. It is requiring a signature from Jonathan. - Brad

Fiscal Impact:

Submitted by: Brad Wheaton

Submitter's Email Address: bradford.wheaton@state.co.us

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/15/2023



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Phone: (970) 641-3244
220 N Spruce, Gunnison, CO 81230

**Comprehensive Civil Rights Plan
Gunnison County Department of Human Services**

220 N Spruce St.
Gunnison, CO 81230
Voice: 970-641-3244
FAX: 970-641-3738

Contact Persons

Civil Rights: Brad Wheaton, Gunnison County DHHS Deputy Director
220 N Spruce Street
Gunnison, CO 81230

ADA: Brad Wheaton, Gunnison County DHHS Deputy Director
220 N Spruce Street
Gunnison, CO 81230

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PURPOSE

As a recipient of Federal Financial Assistance, Gunnison County Department of Health and Human Services is responsible for providing core services to assist and support Colorado's most vulnerable individuals and families so they can meet their basic needs and be treated with respect and dignity. Gunnison County Department of Health and Human Services has a civil rights plan to ensure that all eligible individuals receive equal access to program services and information. Its programs are operated in a nondiscriminatory way, without regard to race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability, be excluded from participation, be denied any aid, care, services, or other benefits of, or be otherwise subjected to discrimination in such program. In medical programs, sex includes sex stereotypes and gender identity under any health program or activity receiving federal funds.

The civil rights plan also serves as a source of information for Gunnison County Department of Health and Human Services staff and the general public. The plan sets out the Agency's civil rights administrative policies and procedures, identifying key contacts within the Agency and linking the reader to applicable state and federal civil rights laws and resources.

LEGAL AUTHORITIES

1. Title VI of the Civil Rights Act of 1964 (race, color, national origin)
2. Section 504 of the Rehabilitation Act of 1973 (disability)
3. Section 508 Amendment of the Rehabilitation act of 1973 (disability)
4. Title II of the Americans with Disabilities Act of 1990; state and local government services (disability)
5. Age Discrimination Act of 1975 (age)
6. Section 1557 of the Patient Protection and Affordable Care Act (added sex discrimination in health care programs)
7. Nondiscrimination Provisions of the Omnibus Budget Reconciliation Act of 1981 (Federal Block Grants)
 - Community Services Block Grant (race, color, national origin, sex) Remaining Block Grants (race, color, national origin, age, disability, sex, religion)
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 - Preventive Health and Human Services Block Grant
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 - Substance Abuse Prevention and Treatment Block Grant
8. Title IX of the Education Amendments of 1972 (sex)
9. Family Violence Prevention and Services Act (race, color, national origin, age, disability, sex, religion)
10. Food Stamp Act of 1977 (As Amended Through P.L. 108-269, 2004)

11. Nondiscrimination Compliance Requirements in the Food Stamp Program, Food and Nutrition Service, US Department of Agriculture
12. Bilingual Requirements in the Food Stamp Program, Food and Nutrition Service, US Department of Agriculture
13. FNS Instruction 113-1, Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, Food and Nutrition Service, US Department of Agriculture (2005)
14. Equal Opportunity for Religious Organizations in USDA Regulation
15. Colorado Anti-Discrimination Act (CADA)

CIVIL RIGHTS CONTACT PERSON

Gunnison County Department of Health and Human Services designates Brad Wheaton to serve as the Agency's Civil Rights Contact on civil rights matters. Mr. Wheaton meets the requirements outlined in 10 CCR 2505-5:1.020.7(1)(a) and HCPF OM 22-014.

Contact Person	Brad Wheaton
Telephone	970-641-7939
Email	bradford.wheaton@state.co.us

EQUAL OPPORTUNITY POLICY

Gunnison County Department of Health and Human Services Policy for Equal Opportunity in Service Delivery

It is the policy of Gunnison County Department of Health and Human Services to make sure that program benefits and services are made available to everyone and provided to all eligible individuals without discrimination, in compliance with civil rights laws.

Gunnison County Department of Health and Human Services employees, services, programs, benefits and policies will not discriminate against applicants, clients or members of the public because of race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability, be excluded from participation, be denied any aid, care, services, or other benefits of, or be otherwise subjected to discrimination in such program. "Sex" includes sex stereotypes and gender identity under any medical or health program receiving federal financial assistance, such as Medical Assistance, CHIP programs, health clinics, insurance companies and state health insurance exchanges. Gunnison County Department of Health and Human Services employees, programs and policies must also allow physical and program access for people with disabilities.

The state nondiscrimination statement is posted in our customer lobby area, as well as our employee common area.

This civil rights policy covers Gunnison County Department of Health and Human Services' full range of services, programs and benefits, including but not limited to, access to information about services, eligibility determinations and intake, admission procedures and treatment. The policy applies to the agencies and providers receiving federal and state funds under contracts, licenses and other arrangements with Gunnison County Department of Health and Human Services. The Colorado Anti-Discrimination Act (CADA) also applies to the work of Gunnison County Department of Health and Human Services and the agencies carrying out the work of Gunnison County Department of Health and Human Services.

Some state laws provide greater protections than federal law. In these cases, Gunnison County Department of Health and Human Services will follow state law.

Program Accessibility Policy for People with Disabilities

Gunnison County Department of Health and Human Services and all of its services, programs and benefits are accessible to and usable by people with disabilities, including people with hearing loss, low vision and other sensory disabilities.

To avoid disability discrimination, Gunnison County Department of Health Human Services will:

- Notify the public about the rights and procedures for people with disabilities under the Americans with Disabilities Act
- Designate an ADA Coordinator and maintain a complaint procedure.

- Make sure that its buildings are physically accessible for people with disabilities.
- Assist individuals with disabilities to apply and qualify for benefits based on their eligibility.
- Provide appropriate auxiliary aids and services, including accessible formats, to ensure effective communication with people with disabilities.
- Provide services, programs and benefits that are accessible to and usable by qualified people with disabilities.

Physical access includes:

- Convenient off-street parking designated specifically for people with disabilities.
- Curb cuts and ramps between parking areas and the Gunnison County Department of Health and Human Services buildings.
- Level access into the first floor of Gunnison County Health and Human Services building.

Reasonable Modifications to Policies, Procedures or Practices

Gunnison County Department of Health and Human Services will make reasonable modifications to its policies, procedures or practices when necessary to avoid discrimination on the basis of disability, unless Gunnison County Department of Health and Human Services can demonstrate that making the modifications would fundamentally alter the nature of the services, programs or benefits.

Effective Communication and Auxiliary Aids and Services

Gunnison County Department of Health and Human Services will take appropriate steps to ensure that communications with people with disabilities and companions with disabilities are as effective as communications with others. To ensure effective communications, Gunnison County Department of Health Human Services will provide auxiliary aids and services, including accessible formats, so that people with disabilities can receive services, programs and benefits and participate in them in the same way as people without disabilities. Auxiliary aids and services include qualified readers, writers and interpreters who convey information effectively, accurately and impartially using any necessary specialized vocabulary.

To determine what types of auxiliary aids or services are necessary, Gunnison County Department of Health Human Services will give primary consideration to the requests of people requesting the auxiliary aid or services unless it would fundamentally alter the nature of the service, program or benefit or cause an undue administrative or financial burden. If this happens, Gunnison County Department of Health and Human Services will find another equally effective auxiliary aid or service.

COMPLAINT RESOLUTION PROCEDURE

Gunnison County Department of Health and Human Services Civil Rights Complaint Procedure

You have the right to equal access to services, if you are an applicant, client or member of the public trying to gain access to human services program information or benefits. Gunnison County Department of Health Human Services has a civil rights complaint procedure that provides prompt and thorough resolution of civil rights complaints.

Civil rights complaints allege discrimination. You have a right to file a civil rights complaint if you believe you have been discriminated against on the basis of race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability, be excluded from participation, be denied any aid, care, services, or other benefits of, or be otherwise subjected to discrimination in such program. Sex includes sex stereotypes and gender identity discrimination that occurs in medical or health programs, insurance companies and state health insurance exchanges.

It is against the law for anyone who works for or contracts with Gunnison County Department of Health and Human Services to retaliate against a person who files a complaint or who cooperates in the investigation of a civil rights complaint.

To file a complaint, ask for the Department's complaint resolution procedure. Use the contact information below to file a complaint. You can also review the law and regulations that outlaw discrimination in the Civil Rights Contact's office.

Brad Wheaton, Deputy Director
Gunnison County Health and Human Services
220 N Spruce St.
Gunnison, CO 81230
970-641-3244 (voice)
970-641-3738 (fax)
bradford.wheaton@state.co.us

Arrangements for People with Disabilities

Gunnison County Department of Health and Human Services will make appropriate arrangements to ensure that people with disabilities are provided reasonable modifications or effective communications, if needed, to participate in the complaint process. Reasonable modifications or effective communications include, but are not limited to, providing interpreters for people who are deaf or hard-of-hearing, providing taped cassettes and accessible formats for people who are blind or have low vision and assuring a physically accessible location for complaint proceedings. The Civil Rights Contact (or designee) is responsible for working with people who file complaints to make appropriate arrangements.

Procedure

- Civil rights complaints must be submitted to the Civil Rights Contact within 180 days of the date the alleged discrimination occurred.
- A complaint must be in writing and contain the name and address of the person filing it. Other important contact information is telephone number, relay number and email address. The complaint must state the problem or action alleged and the relief desired. If you need assistance with your complaint, the Civil Rights Contact will help you.
- The agency must conduct an investigation of the complaint. The investigation may be formal or informal, but it must be thorough and timely. People who have an interest in the complaint must have an opportunity to submit relevant evidence about the complaint. The County agency will issue a written decision on the complaint, to the complainant and the state department, within 30 days after its filing. The written decision will state whether the allegations were substantiated. The County will maintain the complaint records and files for three (3) years. Gunnison County Department of Health and Human Services will track all complaints, outcomes and business practices changes instituted as a result of complaints. Complaints about program rules are not civil rights complaints and will be resolved through a different complaint process.
- The individual who had a complaint received against them cannot be the individual conducting the investigation. If there is a potential conflict of interest, Joni Reynolds, Health and Human Services Executive Director, will be used to conduct the investigation. The applicant, member and/or the individual who submitted the complaint will be able to provide information to the Civil Rights Contact Person to assist with the investigation; this can be in writing or by contacting the Civil Rights Contact person at (970) 641-7939 or at <mailto:dhs@gunnisoncounty.org>.
- The person filing the complaint may appeal the decision by writing to Joni Reynolds, Health and Human Services Executive Director, 220 North Spruce, Gunnison, CO 81230 within fifteen (15) days of receiving the written decision. Joni Reynolds, Health and Human Services Executive Director, will issue a written decision, to the complainant and the state department, in response to the appeal no later than 15 days after the appeal is filed. This decision is final. This appeal process is not the same as filing a fair hearings appeal through the CDHS or HCPF appeals processes.
- The person filing the complaint must be informed that he/she can file a discrimination report directly with the US Department of Health and Human Services Office for Civil Rights or the US Department of Agriculture (USDA) for the SNAP Program.

To file a complaint directly with the US Department of Health and Human Services:

The US Department of Health and Human Services Office for Civil Rights prohibits discrimination in its programs because of race, color, national origin, age, disability, sex or religion. Sex includes sex stereotypes and gender identity discrimination that occurs in medical or health programs and clinics receiving federal financial assistance; these are programs such as Medicaid, CHIP programs, insurance companies and state health insurance exchanges under Title I of the Affordable Care Act. Contact the federal agency directly through their online portal at [OCR Complaint Portal](#), by mail to: Centralized Case Management Operations; US Department

of Health and Human Services; 200 Independence Ave, SW; Room 509F HH Bldg; Washington, DC 20201 or via email at OCRComplaint@hhs.gov.

To file a complaint directly with USDA:

In accordance with Federal civil rights law and US Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Services at 800-877-8339 or 800-845-6136 (Spanish). Additionally, program information may be made in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#) (AD-3207) found online at [USDA Discrimination Complaint](#) and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, send an email to CR-Info@usda.gov or call 866-632-9992. Individuals who are deaf, hard of hearing or have speech disabilities may use the Federal Relay Service 800-877-8339 or 800-845-6136 (Spanish). The form should be submitted by one of the following methods:

1. Mail to USDA; Director, Center for Civil Rights Enforcement; 1400 Independence Avenue, SW; Washington DC 20250-9410.
2. Fax to 202-690-7442.
3. Email to program.intake@usda.gov.

To file a complaint directly with the State of Colorado:

The person filing the complaint must also be informed of the right to file a discrimination complaint directly to the State of Colorado. Complaints can be made through any of the following channels:

Utilize the Department's Civil Rights complaint processes by submitting the [Discrimination Complaint Form](#) or by contacting hcpf504ada@state.co.us.

Utilize the Colorado Civil Rights Division complaint process by completing the [CaseConnect Civil Rights Form](#) or contacting dora_ccrd@state.co.us. The Colorado Civil Rights Division (CCRD) is the State of Colorado's authority for the Colorado Anti-Discrimination Act (CADA).

Contact the Denver branch of the US Department of Health and Human Services Office of Civil Rights at 1961 Stout Street, Room 08-148; Denver CO 80294-3538; 200-368-1019 (voice); 202-619-3818 (fax); 800-537-7697 (TDD); ocrmail@hhs.gov (email).

Gunnison County Department of Health and Human Services is not an enforcement agency. It can investigate situations where policies prohibiting discrimination may have been violated. You are always free to file a discrimination complaint with other appropriate agencies, including enforcement agencies.

Assistance in filing your complaint

If you have questions or need help to file your complaint, the Civil Rights Contact Person can assist.

State Determination of County Compliance with Civil Rights Requirements

As detailed in 10 CCR 2505-5 1.020.6.f.ii, if the Department receives or is notified of a complaint of discrimination against the county, or the county, through its own investigation of a civil rights or discrimination complaint, and the complaint is founded and an applicant, member or individual was found to be discriminated against by the county or its staff, the Department will initiate corrective actions as specified in 10 CCR 2505-5 1.020.11 until the county rectifies the issue. Non-compliance with corrective actions will result in sanctions as stated in 10 CCR 2505-5 1.020.12. County staff involved with a founded complaint involving discrimination against an applicant, member or individual will be required to retake both county training on the County Civil Rights Plan, as well as and State Civil Rights and Non-Discrimination Training.

Civil Rights Plan Administration

Gunnison County Department of Health and Human Services will administer its Civil Rights Plan by doing the following:

- Providing its comprehensive civil rights plan in the Department reception areas in all locations. The plan is available to applicants, clients, members of the public, employees, volunteers and contractors.
- Posting the comprehensive civil rights plan on the Department's website.
- Reviewing the comprehensive civil rights plan annually with all staff.
- Conducting annual SNAP civil rights training for appropriate staff.

Requirement for County Training on County Civil Rights Plan

Gunnison County Health and Human Services will conduct annual training on the agency's civil rights plan to all staff that have contact with applicants and members or agency staff who supervise those who have applicant/member direct contact. The training will include information on how to provide clients and members with civil rights information, guidance on how to assist with filing civil rights complaints and updated contact information for the agency's Civil Rights Contact Person. Training will also provide staff with information on how to access auxiliary aids and services and language access services for applicants and/or members. 100% of Gunnison County Health and Human Services staff shall complete the annual training, and

tracking of completion of annual training shall be maintained by the Civil Rights Contact Person on the agency training spreadsheet.

Agency staff appointed to fulfill duties relating to the administration of Medical Assistance and who have direct contact with applicants and members or who supervise those who have direct contact with applicants and/or members are required to complete annual State Civil Rights and Nondiscrimination training provided by the Staff Development Division (SDD). 100% of the agency's staff must complete the required training on an annual basis. Failure to complete the training annually may result in loss of access to the Colorado Benefits Management System (CBMS). The Agency Civil Rights Contact Person shall maintain tracking of training completion by staff on the agency training spreadsheet.

The Civil Rights Contact Person will conduct, as needed, training to staff based on complaint referrals received by the agency and when investigations on complaints determine that there was a violation and/or founded discrimination. This training will be conducted to ensure that future occurrences of civil rights complaints are prevented to the best of the staff members ability. The training will be tracked on the agency training spreadsheet and on the agency's Civil Rights Complaint log. Additional action may be taken including but not limited to staff performance improvement plan and termination.

County Contractor, Vendor and Partner Compliance with Civil Rights Provisions

As specified in 10 CCR 2505-5 1.020.6.1.c, the county department shall assure that any contractors, vendors, partners or other parties that do business on behalf of the county, are paid using federal and state Medical Assistance funds, or who have contact with applicants or members comply with federal and state civil rights laws and the provisions within this Operational Memo. If the county is alerted to discriminatory activity, the county must notify the Department, using the Department contact below, within three (3) calendar days.

HINSDALE and GUNNISON BOARD OF HUMAN SERVICES,

X

Chairman, Jonathan Houck



Comprehensive Civil Rights Plan
Gunnison County Department of Human Services

220 N Spruce St.
Gunnison, CO 81230
Voice: 970-641-3244
FAX: 970-641-3738

Contact Persons

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Gunnison County Department of Health and Human Services Policy for Equal Opportunity in Service Delivery

It is the policy of Gunnison County Department of Health and Human Services to make sure that program benefits and services are made available to everyone and provided to all eligible individuals without discrimination, in compliance with civil rights laws.

Gunnison County Department of Health and Human Services employees, services, programs, benefits and policies will not discriminate against applicants, clients or members of the public because of race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability, be excluded from participation, be denied any aid, care, services, or other benefits of, or be otherwise subjected to discrimination in such program. "Sex" includes sex stereotypes and gender identity under any medical or health program receiving federal financial assistance, such as Medical Assistance, CHIP programs, health clinics, insurance companies and state health insurance exchanges. Gunnison County Department of Health and Human Services employees, programs and policies must also allow physical and program access for people with disabilities.

The state nondiscrimination statement is posted in our customer lobby area, as well as our employee common area.

This civil rights policy covers Gunnison County Department of Health and Human Services' full range of services, programs and benefits, including but not limited to, access to information about services, eligibility determinations and intake, admission procedures and treatment. The policy applies to the agencies and providers receiving federal and state funds under contracts, licenses and other arrangements with Gunnison County Department of Health and Human Services. The Colorado Anti-Discrimination Act (CADA) also applies to the work of Gunnison County Department of Health and Human Services and the agencies carrying out the work of Gunnison County Department of Health and Human Services.

Some state laws provide greater protections than federal law. In these cases, Gunnison County Department of Health and Human Services will follow state law.

Program Accessibility Policy for People with Disabilities

Gunnison County Department of Health and Human Services and all of its services, programs and benefits are accessible to and usable by people with disabilities, including people with hearing loss, low vision and other sensory disabilities.

To avoid disability discrimination, Gunnison County Department of Health Human Services will:

- Notify the public about the rights and procedures for people with disabilities under the Americans with Disabilities Act
- Designate an ADA Coordinator and maintain a complaint procedure.

- Make sure that its buildings are physically accessible for people with disabilities.
- Assist individuals with disabilities to apply and qualify for benefits based on their eligibility.
- Provide appropriate auxiliary aids and services, including accessible formats, to ensure effective communication with people with disabilities.
- Provide services, programs and benefits that are accessible to and usable by qualified people with disabilities.

Physical access includes:

- Convenient off-street parking designated specifically for people with disabilities.
- Curb cuts and ramps between parking areas and the Gunnison County Department of Health and Human Services buildings.
- Level access into the first floor of Gunnison County Health and Human Services building.

Reasonable Modifications to Policies, Procedures or Practices

Gunnison County Department of Health and Human Services will make reasonable modifications to its policies, procedures or practices when necessary to avoid discrimination on the basis of disability, unless Gunnison County Department of Health and Human Services can demonstrate that making the modifications would fundamentally alter the nature of the services, programs or benefits.

Effective Communication and Auxiliary Aids and Services

Gunnison County Department of Health and Human Services will take appropriate steps to ensure that communications with people with disabilities and companions with disabilities are as effective as communications with others. To ensure effective communications, Gunnison County Department of Health Human Services will provide auxiliary aids and services, including accessible formats, so that people with disabilities can receive services, programs and benefits and participate in them in the same way as people without disabilities. Auxiliary aids and services include qualified readers, writers and interpreters who convey information effectively, accurately and impartially using any necessary specialized vocabulary.

To determine what types of auxiliary aids or services are necessary, Gunnison County Department of Health Human Services will give primary consideration to the requests of people requesting the auxiliary aid or services unless it would fundamentally alter the nature of the service, program or benefit or cause an undue administrative or financial burden. If this happens, Gunnison County Department of Health and Human Services will find another equally effective auxiliary aid or service.

COMPLAINT RESOLUTION PROCEDURE

Gunnison County Department of Health and Human Services Civil Rights Complaint Procedure

You have the right to equal access to services, if you are an applicant, client or member of the public trying to gain access to human services program information or benefits. Gunnison County Department of Health Human Services has a civil rights complaint procedure that provides prompt and thorough resolution of civil rights complaints.

Civil rights complaints allege discrimination. You have a right to file a civil rights complaint if you believe you have been discriminated against on the basis of race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability, be excluded from participation, be denied any aid, care, services, or other benefits of, or be otherwise subjected to discrimination in such program. Sex includes sex stereotypes and gender identity discrimination that occurs in medical or health programs, insurance companies and state health insurance exchanges.

It is against the law for anyone who works for or contracts with Gunnison County Department of Health and Human Services to retaliate against a person who files a complaint or who cooperates in the investigation of a civil rights complaint.

To file a complaint, ask for the Department's complaint resolution procedure. Use the contact information below to file a complaint. You can also review the law and regulations that outlaw discrimination in the Civil Rights Contact's office.

Brad Wheaton, Deputy Director
Gunnison County Health and Human Services
220 N Spruce St.
Gunnison, CO 81230
970-641-3244 (voice)
970-641-3738 (fax)
bradford.wheaton@state.co.us

Arrangements for People with Disabilities

Gunnison County Department of Health and Human Services will make appropriate arrangements to ensure that people with disabilities are provided reasonable modifications or effective communications, if needed, to participate in the complaint process. Reasonable modifications or effective communications include, but are not limited to, providing interpreters for people who are deaf or hard-of-hearing, providing taped cassettes and accessible formats for people who are blind or have low vision and assuring a physically accessible location for complaint proceedings. The Civil Rights Contact (or designee) is responsible for working with people who file complaints to make appropriate arrangements.

Procedure

- Civil rights complaints must be submitted to the Civil Rights Contact within 180 days of the date the alleged discrimination occurred.
- A complaint must be in writing and contain the name and address of the person filing it. Other important contact information is telephone number, relay number and email address. The complaint must state the problem or action alleged and the relief desired. If you need assistance with your complaint, the Civil Rights Contact will help you.
- The agency must conduct an investigation of the complaint. The investigation may be formal or informal, but it must be thorough and timely. People who have an interest in the complaint must have an opportunity to submit relevant evidence about the complaint. The County agency will issue a written decision on the complaint, to the complainant and the state department, within 30 days after its filing. The written decision will state whether the allegations were substantiated. The County will maintain the complaint records and files for three (3) years. Gunnison County Department of Health and Human Services will track all complaints, outcomes and business practices changes instituted as a result of complaints. Complaints about program rules are not civil rights complaints and will be resolved through a different complaint process.
- The individual who had a complaint received against them cannot be the individual conducting the investigation. If there is a potential conflict of interest, Joni Reynolds, Health and Human Services Executive Director, will be used to conduct the investigation. The applicant, member and/or the individual who submitted the complaint will be able to provide information to the Civil Rights Contact Person to assist with the investigation; this can be in writing or by contacting the Civil Rights Contact person at (970) 641-7939 or at <mailto:dhs@gunnisoncounty.org>.
- The person filing the complaint may appeal the decision by writing to Joni Reynolds, Health and Human Services Executive Director, 220 North Spruce, Gunnison, CO 81230 within fifteen (15) days of receiving the written decision. Joni Reynolds, Health and Human Services Executive Director, will issue a written decision, to the complainant and the state department, in response to the appeal no later than 15 days after the appeal is filed. This decision is final. This appeal process is not the same as filing a fair hearings appeal through the CDHS or HCPF appeals processes.
- The person filing the complaint must be informed that he/she can file a discrimination report directly with the US Department of Health and Human Services Office for Civil Rights or the US Department of Agriculture (USDA) for the SNAP Program.

To file a complaint directly with the US Department of Health and Human Services:

The US Department of Health and Human Services Office for Civil Rights prohibits discrimination in its programs because of race, color, national origin, age, disability, sex or religion. Sex includes sex stereotypes and gender identity discrimination that occurs in medical or health programs and clinics receiving federal financial assistance; these are programs such as Medicaid, CHIP programs, insurance companies and state health insurance exchanges under Title I of the Affordable Care Act. Contact the federal agency directly through their online portal at [OCR Complaint Portal](#), by mail to: Centralized Case Management Operations; US Department

of Health and Human Services; 200 Independence Ave, SW; Room 509F HH Bldg; Washington, DC 20201 or via email at OCRComplaint@hhs.gov.

To file a complaint directly with USDA:

In accordance with Federal civil rights law and US Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Services at 800-877-8339 or 800-845-6136 (Spanish). Additionally, program information may be made in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#) (AD-3207) found online at [USDA Discrimination Complaint](#) and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, send an email to CR-Info@usda.gov or call 866-632-9992. Individuals who are deaf, hard of hearing or have speech disabilities may use the Federal Relay Service 800-877-8339 or 800-845-6136 (Spanish). The form should be submitted by one of the following methods:

1. Mail to USDA; Director, Center for Civil Rights Enforcement; 1400 Independence Avenue, SW; Washington DC 20250-9410.
2. Fax to 202-690-7442.
3. Email to program.intake@usda.gov.

To file a complaint directly with the State of Colorado:

The person filing the complaint must also be informed of the right to file a discrimination complaint directly to the State of Colorado. Complaints can be made through any of the following channels:

Utilize the Department's Civil Rights complaint processes by submitting the [Discrimination Complaint Form](#) or by contacting hcpf504ada@state.co.us.

Utilize the Colorado Civil Rights Division complaint process by completing the [CaseConnect Civil Rights Form](#) or contacting dora_ccrd@state.co.us. The Colorado Civil Rights Division (CCRD) is the State of Colorado's authority for the Colorado Anti-Discrimination Act (CADA).

Contact the Denver branch of the US Department of Health and Human Services Office of Civil Rights at 1961 Stout Street, Room 08-148; Denver CO 80294-3538; 200-368-1019 (voice); 202-619-3818 (fax); 800-537-7697 (TDD); ocrmail@hhs.gov (email).

Gunnison County Department of Health and Human Services is not an enforcement agency. It can investigate situations where policies prohibiting discrimination may have been violated. You are always free to file a discrimination complaint with other appropriate agencies, including enforcement agencies.

Assistance in filing your complaint

If you have questions or need help to file your complaint, the Civil Rights Contact Person can assist.

State Determination of County Compliance with Civil Rights Requirements

As detailed in 10 CCR 2505-5 1.020.6.f.ii, if the Department receives or is notified of a complaint of discrimination against the county, or the county, through its own investigation of a civil rights or discrimination complaint, and the complaint is founded and an applicant, member or individual was found to be discriminated against by the county or its staff, the Department will initiate corrective actions as specified in 10 CCR 2505-5 1.020.11 until the county rectifies the issue. Non-compliance with corrective actions will result in sanctions as stated in 10 CCR 2505-5 1.020.12. County staff involved with a founded complaint involving discrimination against an applicant, member or individual will be required to retake both county training on the County Civil Rights Plan, as well as and State Civil Rights and Non-Discrimination Training.

Civil Rights Plan Administration

Gunnison County Department of Health and Human Services will administer its Civil Rights Plan by doing the following:

- Providing its comprehensive civil rights plan in the Department reception areas in all locations. The plan is available to applicants, clients, members of the public, employees, volunteers and contractors.
- Posting the comprehensive civil rights plan on the Department's website.
- Reviewing the comprehensive civil rights plan annually with all staff.
- Conducting annual SNAP civil rights training for appropriate staff.

Requirement for County Training on County Civil Rights Plan

Gunnison County Health and Human Services will conduct annual training on the agency's civil rights plan to all staff that have contact with applicants and members or agency staff who supervise those who have applicant/member direct contact. The training will include information on how to provide clients and members with civil rights information, guidance on how to assist with filing civil rights complaints and updated contact information for the agency's Civil Rights Contact Person. Training will also provide staff with information on how to access auxiliary aids and services and language access services for applicants and/or members. 100% of Gunnison County Health and Human Services staff shall complete the annual training, and

tracking of completion of annual training shall be maintained by the Civil Rights Contact Person on the agency training spreadsheet.

Agency staff appointed to fulfill duties relating to the administration of Medical Assistance and who have direct contact with applicants and members or who supervise those who have direct contact with applicants and/or members are required to complete annual State Civil Rights and Nondiscrimination training provided by the Staff Development Division (SDD). 100% of the agency's staff must complete the required training on an annual basis. Failure to complete the training annually may result in loss of access to the Colorado Benefits Management System (CBMS). The Agency Civil Rights Contact Person shall maintain tracking of training completion by staff on the agency training spreadsheet.

The Civil Rights Contact Person will conduct, as needed, training to staff based on complaint referrals received by the agency and when investigations on complaints determine that there was a violation and/or founded discrimination. This training will be conducted to ensure that future occurrences of civil rights complaints are prevented to the best of the staff members ability. The training will be tracked on the agency training spreadsheet and on the agency's Civil Rights Complaint log. Additional action may be taken including but not limited to staff performance improvement plan and termination.

County Contractor, Vendor and Partner Compliance with Civil Rights Provisions

As specified in 10 CCR 2505-5 1.020.6.1.c, the county department shall assure that any contractors, vendors, partners or other parties that do business on behalf of the county, are paid using federal and state Medical Assistance funds, or who have contact with applicants or members comply with federal and state civil rights laws and the provisions within this Operational Memo. If the county is alerted to discriminatory activity, the county must notify the Department, using the Department contact below, within three (3) calendar days.

HINSDALE and GUNNISON BOARD OF HUMAN SERVICES,

X

Chairman, Jonathan Houck

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Program Updates: Universal Pre-K and the Local C

Action Requested: Discussion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

For your review, the slide presentations to be used during the Gunnison/Hinsdale Board of Human Services program updates on Universal Pre-K and the Local Coordinating Organization (LCO).

Fiscal Impact:

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 20

Agenda Date: 8/15/2023

Universal Preschool

120 children enrolled

14 receiving full time- 30 hours per week

\$10,669.68 per child

TOTAL: \$149,375

106 children part time 15 hours/week

\$6,068.47 per child

TOTAL: \$643,257

TOTAL of: \$792,632



COLORADO

Department of Early Childhood

Current UPK Slot Availability

- 6 full day openings at Wonderland
- 9 full day openings at Tenderfoot
- 2 potential openings at Stepping Stones
- 5 potential openings at Paradise Place

Early Childhood Teacher Workforce

- Currently 2 of our 6 licensed family child care home providers have retired or will be retiring soon. **This is a loss of 18 licensed child care slots.**

Sick Leave Program

The GHECC has supported **78 teachers** with paid sick leave
from **August 2020-June 2023**

There is a \$1,000 cap/teacher per year

TOTAL COST OF PROGRAM SO FAR: \$61,178

Funding for this program has been provided by the Community Foundation of the Gunnison Valley COVID relief fund, the Town of Crested Butte, and the City of Gunnison.

*A large portion of the funding has come through 1 year grant opportunities

The Early Childhood Workforce Innovation Grant 2021-2022 - \$25,850

CIRCLE Grant 2022-2023 - \$15,000

(Neither of these grant opportunities will be available in the future)

Annually the Sick Leave Program costs between \$18,000 and \$25,000

Early Childhood Educator EC Credential Stipend Program

Stipend program that provides a modest award to early childhood educators based on their Early Childhood Credential Level

In December of 2021

A total of \$13,100 was awarded to 49 Teachers

- **8 teachers received a \$100 Stipend**
- **13 teachers received a \$200 stipend**
- **15 teachers received a \$300 stipend**
- **13 teachers received a \$400 stipend**

December 2022-June 2023

A total of \$29,000 was awarded to 58 Teachers

- **5 teachers received a \$100 Stipend**
- **10 teachers received a \$200 stipend**
- **5 teachers received a \$300 stipend**
- **9 teachers received a \$400 stipend**
- **9 teachers received a \$600 stipend**
- **20 teachers received a \$800 stipend**



Early Childhood Food Boxes for Teachers

- Through a partnership with Mountain Roots the GHECC has been able to provide food boxes to **80+ early childhood teachers** and home providers on a monthly basis.
- A total of **686** food boxes have been delivered from October 2022-June 2023
A total of \$36,000 has been spent on this project.

Annually we estimate that this program would cost around \$60,000 annually to continue for at the current level of operation.



Photo from Gunnison Times March 1st, 2023

Local EC Workforce Initiatives

- Sick Leave –
 - City of Gunnison - \$3,757 that rolled over from 2022 + \$3,000 (2023 funding)
 - Town of CB - \$10,000 remaining from 2022 funding
 - TOTAL remaining: \$16,757
 - *We anticipate having enough funding remaining through the end of 2023
- EC Stipend Program – City of Gunnison
 - City of Gunnison - \$15,000
 - Town of Crested Butte – \$0
 - Currently in need of at least \$15,000 to run the program at the same capacity in 2023. The Council plans to apply for the Town of CB Fall grant cycle
- Food Boxes – no longer have funding for this initiative
 - Program costs \$36,000 to run from October through June

Family, Friend, Neighbor Caregiver Support

- Colorado Health Foundation
 - 3 year grant from September 2020-September 2023
 - \$18,900 Annually
 - Grant Ends September 15th, 2023
 - Will be able to continue this work with other funding through September 2024, but unsure of funding after September 2024

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Alcohol Beverage License #26-34997-00

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Kathy Simillion, County Clerk

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Liquor license renewal for Garlic Mike's

Fiscal Impact:

Submitted by: Kathy Simillion, County Clerk

Submitter's Email Address: ksimillion@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 1

Agenda Date: 8/15/2023



GUNNISON COUNTY

THIS LICENSE MUST BE POSTED IN PUBLIC VIEW

**GUNNISON COUNTY
GUNNISON COUNTY CLERK
221 N. WISCONSIN STREET
GUNNISON, COLORADO 81230**

LICENSE TYPE

ALCOHOL BEVERAGE LICENSE #26-34997-0000
to sell/serve malt, vinous, spirituous liquor for (on the)-premises
consumption in the County of Gunnison, Colorado.

**TRE AMICI CORP DBA GARLIC MIKE'S
2674 HWY 135
GUNNISON, COLORADO 81230**

Fee \$100.00

Effective Dates: 09.14.2023 - 09.14.2024

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 4, 3, CRS 1973, as amended; and the Ordinances of the County of Gunnison as applicable.

Kathy Simillion 8-3-23
Gunnison County Clerk Date
Kathy Simillion

Board of County Commissioners Date

THIS LICENSE MUST BE POSTED IN PUBLIC VIEW

DR 8402 (07/01/2012)

**STATE OF COLORADO
DEPARTMENT OF REVENUE**

LIQUOR ENFORCEMENT DIVISION

1707 Cole Blvd, Suite 300

Lakewood, CO 80401

**TRE AMICI CORP
dba GARLIC MIKE'S
2674 HWY 135
Gunnison CO 81230**

ALCOHOL BEVERAGE LICENSE

Liquor License Number 26-34997-0000	License Expires at Midnight September 14, 2024
License Type HOTEL & RESTAURANT (COUNTY)	
Authorized Beverages MALT, VINOUS AND SPIRITUOUS LIQUOR	

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 4, 3, CRS 1973, as amended. This license is nontransferable and shall be conspicuously posted in the place above described. This license is only valid through the expiration date shown above. Any questions concerning this license should be addressed to: Colorado Liquor Enforcement Division, 1707 Cole Blvd, Suite 300 Lakewood, CO 80401.

In testimony whereof, I have hereunto set my hand. 8/3/2023 MH

Michelle Stone-Principato

Michelle Stone-Principato, Division Director

Mark Ferrandino

Mark Ferrandino, Executive Director/CEO

THIS LICENSE MUST BE POSTED IN PUBLIC VIEW

**STATE OF COLORADO
DEPARTMENT OF REVENUE**

LIQUOR AND TOBACCO ENFORCEMENT DIVISION
1707 Cole Blvd, Suite 300
Lakewood, CO 80401

GARLIC MIKE'S
2674 HWY 135
Gunnison, CO 81230

**ALCOHOL BEVERAGE TAKEOUT
AND/OR DELIVERY PERMIT**

Liquor License/permit Number
26-34997-0000

License Expires at Midnight
September 14, 2024

This permit allows your business to conduct:

- Takeout
 Delivery

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 7, C.R.S., as amended. This license is nontransferable and shall be conspicuously posted in the place above described. This license is only valid through the expiration date shown above. Any questions concerning this license should be addressed to: Colorado Liquor and Tobacco Enforcement Division, 1707 Cole Blvd, Suite 300 Lakewood, CO 80401.

In testimony whereof, I have hereunto set my hand. 8/3/2023 MH

Michelle Stone-Principato

Michelle Stone-Principato, Division Director

Mark Ferrandino

Mark Ferrandino, Executive Director/CEO

Submit to Local Licensing Authority

GARLIC MIKE'S
2674 HWY 135
Gunnison CO 81230

received
 7-31-2023

Fees Due	
take out Delivery	11.00
Renewal Fee	625.00
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$ 626.00

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Colorado Beer and Wine License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name TRE AMICI CORP		Doing Business As Name (DBA) GARLIC MIKE'S	
Liquor License # 26-34997-0000	License Type Hotel & Restaurant (county)		
Sales Tax License Number 26349970000	Expiration Date 09/14/2023	Due Date 07/31/2023	
Business Address 2674 HWY 135 Gunnison CO 81230			Phone Number 9706412493
Mailing Address 2674 HWY 135 Gunnison CO 81230		Email	
Operating Manager Michael T. Busse	Date of Birth 6/18/65	Home Address 414 S. Taylor ST. Gunnison, CO 81230	Phone Number 970-596-3476
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Rented* *If rented, expiration date of lease _____			
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
3b. If so, which are you renewing? <input type="checkbox"/> Delivery <input checked="" type="checkbox"/> Takeout <input type="checkbox"/> Both Takeout and Delivery			
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes No

8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes No

Affirmation & Consent			
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.			
Type or Print Name of Applicant/Authorized Agent of Business		Title	
Traci M. Busse		owner/secretary/treasurer	
Signature		Date	
<i>Traci M. Busse</i>		7/26/23	
Report & Approval of City or County Licensing Authority			
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.			
Therefore this application is approved.			
Local Licensing Authority For		Date	
Gunnison		7-31-2023	
Signature	Title	Attest	
<i>Kathy Semillon</i>	County Clerk	<i>[Signature]</i>	

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Alcohol Beverage License #03-01981; A

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Kathy Simillion, County Clerk

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Amie Mountain Lodge LLC dba Inn At Arrowhead

Fiscal Impact:

Submitted by: Kathy Simillion, County Clerk

Submitter's Email Address: ksimillion@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 1

Agenda Date: 8/15/2023



GUNNISON COUNTY

THIS LICENSE MUST BE POSTED IN PUBLIC VIEW

GUNNISON COUNTY
GUNNISON COUNTY CLERK
221 N. WISCONSIN STREET
GUNNISON, COLORADO 81230

LICENSE TYPE

ALCOHOL BEVERAGE LICENSE #03-01981

to sell/serve malt, vinous, spirituous liquor for (on the) premises
consumption in the County of Gunnison, Colorado.

AMIE MOUNTAIN LODGE LLC DBA INN AT ARROWHEAD
21401 ALPINE PLATEAU
CIMARRON, COLORADO 81220

Fee \$100.00

Effective Dates: 10.15.2023 - 10.15.2024

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 4, 3, CRS 1973, as amended; and the Ordinances of the County of Gunnison as applicable.

Kathy Simillion 8-2-2023 _____
Gunnison County Clerk Date Board of County Commissioners Date
Kathy Simillion

THIS LICENSE MUST BE POSTED IN PUBLIC VIEW

DR 8402 (07/01/2012)

**STATE OF COLORADO
DEPARTMENT OF REVENUE**

LIQUOR ENFORCEMENT DIVISION

1707 Cole Blvd, Suite 300

Lakewood, CO 80401

**AMIE MOUNTAIN LODGE LLC
dba INN AT ARROWHEAD
21401 ALPINE PLATEAU
Cimarron CO 81220**

ALCOHOL BEVERAGE LICENSE

Liquor License Number 03-01981	License Expires at Midnight October 15, 2024
License Type HOTEL & RESTAURANT (COUNTY)	
Authorized Beverages MALT, VINOUS AND SPIRITUOUS LIQUOR	

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 4, 3, CRS 1973, as amended. This license is nontransferable and shall be conspicuously posted in the place above described. This license is only valid through the expiration date shown above. Any questions concerning this license should be addressed to: Colorado Liquor Enforcement Division, 1707 Cole Blvd, Suite 300 Lakewood, CO 80401.

In testimony whereof, I have hereunto set my hand. 8/2/2023 MH

Michelle Stone-Principato

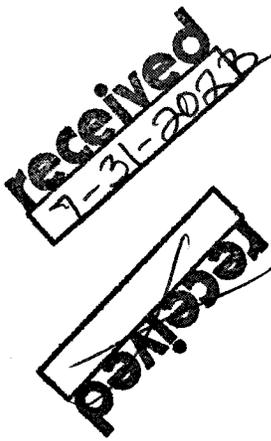
Michelle Stone-Principato, Division Director

Mark Ferrandino

Mark Ferrandino, Executive Director/CEO

Submit to Local Licensing Authority

**INN AT ARROWHEAD
 21401 ALPINE PLATEAU
 Cimarron CO 81220**



Fees Due	
Renewal Fee	625.00
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Colorado Beer and Wine License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name AMIE MOUNTAIN LODGE LLC		Doing Business As Name (DBA) INN AT ARROWHEAD	
Liquor License # 03-01981	License Type Hotel & Restaurant (county)		
Sales Tax License Number 30119387	Expiration Date 10/15/2023	Due Date 08/31/2023	
Business Address 21401 ALPINE PLATEAU Cimarron CO 81220			Phone Number 9708628206
Mailing Address 21401 ALPINE PLATEAU Cimarron CO 81220		Email relax@arrowheadmountainlodge.com	
Operating Manager Jessica Amie	Date of Birth 05/19/80	Home Address 606 Snowshoe LN	Phone Number 970 443 7465
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Rented* *If rented, expiration date of lease _____			
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3b. If so, which are you renewing? <input type="checkbox"/> Delivery <input type="checkbox"/> Takeout <input type="checkbox"/> Both Takeout and Delivery			
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes No

8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes No

Affirmation & Consent	
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.	
Type or Print Name of Applicant/Authorized Agent of Business	Title
Jessica Amie	OWNER
Signature	Date
<i>Jessica Amie</i>	7/26/23
Report & Approval of City or County Licensing Authority	
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.	
Therefore this application is approved.	
Local Licensing Authority For	Date
Quinnipiac County	7-31-23
Signature	Title
<i>Kathy Simmons</i>	County Clerk
	Attest
	<i>Paul Frazier</i>

Gunnison County Board of County Commissioners Calendar (Two or more commissioners may be in attendance.)

August 15 – September 26, 2023
(as of 8/11/2023)

Board of County Commissioners

1. [BOCC Regular Meeting](#)

August 15, 2023, All Day @ BOCC Boardroom

[More Details](#)

2. [BOCC Work Session](#)

August 22, 2023, All Day @ BOCC Boardroom

[More Details](#)

3. [BOCC Work Session w/ Marble Board of Trustees and Marble Community Members](#)

August 29, 2023, 6:00 PM @ Marble Community Church, Fellowship Hall; 121 State Street, Marble, CO

[More Details](#)

4. [BOCC Work Session w/ Somerset Domestic Waterworks District](#)

August 30, 2023, 11:00 AM @ Domestic Waterworks District Bldg, 3674 Hwy 133, Somerset, CO

[More Details](#)

5. [BOCC Work Session Somerset Community Meeting](#)

August 30, 2023, 12:00 PM @ Zorie Zakely Park;

Alternate location in case of bad weather: Domestic Waterworks District Bldg, 3674 Hwy 133, Somerset, CO

[More Details](#)

6. [BOCC Regular Meeting](#)

September 5, 2023, All Day @ BOCC Boardroom

[More Details](#)

7. [Mayors & Managers Meeting - Hosted by Gunnison School District](#)

September 7, 2023, 12:00 PM - 1:30 PM

[More Details](#)

8. [BOCC Work Session](#)

September 12, 2023, All Day @ BOCC Boardroom

[More Details](#)

9. [BOCC Regular Meeting](#)

September 19, 2023, All Day @ BOCC Boardroom

[More Details](#)

10. [BOCC Work Session](#)

September 26, 2023, All Day @ BOCC Boardroom

[More Details](#)

Gunnison County Organization

1. [Holiday - Labor Day - Offices Closed](#)

September 4, 2023, All Day

[More Details](#)

[More Details](#)

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Minutes: July 18, 2023 Regular Meeting

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

For your review, the BoCC minutes from the July 18, 2023 regular meeting

Fiscal Impact:

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient. SO 8/11/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/11/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 2

Agenda Date: 8/15/2023

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
July 18, 2023**

The July 18, 2023 meeting was held in the Board of County Commissioners’ meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present, either in person or via Zoom, were:

- | | |
|--|-------------------------------------|
| Jonathan Houck, Chairperson | Matthew Birnie, County Manager |
| Liz Smith, Vice-Chairperson | Melanie Bollig, Deputy County Clerk |
| Laura Puckett Daniels, Commissioner [REMOTE] | Others Present as Listed in Text |

GUNNISON COUNTY LOCAL LIQUOR LICENSING AUTHORITY:

CALL TO ORDER: Chairperson Houck called the Gunnison County Local Liquor Licensing Authority meeting to order at 8:30 am.

BREAK: The meeting recessed from 8:30 until 8:35 am, in order to hold the following Public Hearing.

PUBLIC HEARING; COLORADO LIQUOR RETAIL LICENSE APPLICATION; POWDER MONARCH LLC DBA MONARCH SKI AND SNOWBOARD AREA; 24500 US HWY 50, GUNNISON, COLORADO: Gunnison County Clerk and Recorder Kathy Simillion was present in the room, and Applicant Richard Stroud attended remotely via Zoom.

1. Open Public Hearing. Chairperson Houck opened the Public Hearing at 8:31 am.
2. Public Notice Confirmation. County Clerk Simillion confirmed that the Public Hearing had been properly noticed.
3. Identify Ex Parte Communications. No ex parte communications were identified.
4. Staff Presentation. County Clerk Kathy Simillion confirmed for Chairperson Houck that the application was going through a concurrent review from the County and the State, and there was nothing found to be out of the ordinary in the review process. She further noted that the State had indicated their pre-approval was complete and it was now a matter of receiving the commissioners’ approval; the commissioners should expect a request for approval and signature on the Alcohol Beverage License itself at the next regular meeting.
5. Applicant Presentation. Applicant Richard Stroud thanked the commissioners for considering this application, and added that all the Gunnison County staff he had worked with had been a great help.
6. Board Questions. There were no questions from the Board.
7. Public Comments. Chairperson Houck opened the Public Hearing to comments at 8:35 am. No one in the room or remotely via Zoom was present for comment.
8. Acknowledge Correspondence Received. Commissioner Houck confirmed that no additional correspondence was received.
9. Applicant Response. Applicant Richard Stroud again thanked the County Commissioners and staff for all their help.
10. Close Public Hearing. Chairperson Houck closed the Public Hearing at 8:35 am and immediately reconvened the Local Liquor License Authority meeting.

CONSENT AGENDA: With no questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Houck, to approve the Alcohol Beverage License #03-11784 for Birdsey Enterprises LLC dba Taylor Park Marina, as presented. Motion carried unanimously.

1. Alcohol Beverage License #03-11784; Birdsey Enterprises LLC dba Taylor Park Marina; 21700 County Road 742, Almont, Colorado; 6/11/2023 – 6/11/2024

ADJOURN: Chairperson Houck adjourned the meeting of the Local Liquor Licensing Authority at 8:37 am.

GUNNISON/HINSDALE BOARD OF HUMAN SERVICES:

CALL TO ORDER: Chairperson Houck called the meeting to order at 8:37 am. Present in the room was Hinsdale County Commissioner Greg Levine, and attending remotely was Assistant County Manager for Health, Human, and Safety Services Joni Reynolds.

CONSENT AGENDA: ACM Reynolds informed the Board that this was a standard MOU document that they have signed for a couple of years now, allowing them to look up work history through a couple of their programs. She also thanked Commissioner Levine for making the trek down to attend the meeting in person.

With no questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Levine, to approve the MOU on the consent agenda, as presented. Motion carried unanimously.

1. Approval for Memorandum of Understanding between; (A) the Rural Consortium Workforce Development Board (the "Workforce Board"); (B) the Colorado Rural Workforce Board of Local Elected Officials (the "LEO Board"); (C) the Colorado Department of Labor and Employment,

Division of Employment and Training, acting by and through the Colorado Rural Workforce Consortium ("CRWC" or the "State"); and (D) The One-Stop Partner (collectively "the Parties") as required by Workforce Innovation and Opportunity Act of 2014 (WIOA); for preparing rural Coloradoans' access and entry into a skilled workforce; 7/01/2023 - 6/20/2026

ADJOURN: Chairperson Houck adjourned the meeting of the Gunnison/Hinsdale Board of Human Services at 8:39 am.

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS REGULAR MEETING:

CALL TO ORDER: Chairperson Houck called the Gunnison County Board of County Commissioners regular meeting to order at 8:39 am.

AGENDA REVIEW: No changes were needed to the agenda.

SCHEDULING: Chairperson Houck noted that the Mayors & Managers meeting would be hosted by the Gunnison County Library on August 3rd. He stated that he would be out of town; Commissioner Smith confirmed she would also be out of town. County Manager Birnie added that he would also be out of town; however, Assistant County Manager for Community and Economic Development Cathie Pagano would be attending in his place. Commissioner Puckett Daniels stated she might be able to attend and suggested that she and Commissioner Houck talk this through after the meeting.

Chairperson Houck reminded the other commissioners of the joint public hearing with the Planning Commission, scheduled for Thursday, July 20th, and further noted that he would not be in office for the August 8th BOCC work session.

MINUTES: Commissioner Smith reminded those present that she not been able to remotely attend all of the June 20th meeting, and had not been present for the Strategic Plan Update from Western Colorado University.

Moved by Commissioner Houck, seconded by Commissioner Smith, to approve the meeting minutes of June 20th, 2023, as presented. Motion carried unanimously.

1. June 20, 2023 Regular Meeting

CONSENT AGENDA: With no questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Houck, to approve the consent agenda, as presented. Motion carried unanimously.

1. Acknowledgement of Acting County Manager's signature; American Red Cross, Mile High Chapter, Facility Use Agreement; Gunnison County Fairgrounds; for use of the Fred R. Field building at the Fairgrounds as an emergency shelter; Effective date of signing up to 30 days after written notice by either party
2. Approval for Intergovernmental Agreement Between Gunnison County Clerk & Recorder and Bishop of Pueblo; for lease of Queen of All Saint's Parish Hall, 405 Sopris Ave, Crested Butte, Colorado, as a Voter Service Polling Center for 2023 elections; 11/3/2023 - 11/7/2023; \$1,200
3. Acknowledgement of Acting County Manager's signature; Professional Services Agreement; PanTerra Energy; for contractor services – Geothermal Test Well and Thermal Conductivity test - at the Whetstone Housing Project, Crested Butte; 6/16/2023 - 12/31/2023; \$28,468
4. Acknowledgement of Acting County Manager's signature; Professional Services Agreement; PanTerra Energy; for contractor services – Geothermal Test Well and Thermal Conductivity test - at the Gunnison County Road and Bridge Division 2 Shop, Crested Butte; 6/16/2023 - 12/31/2023; \$28,468
5. Acknowledgement of County Manager's signature; United Companies Bid #22352; for paving at Meridian Lake, Crested Butte; Effective 6/22/2023; \$86,753.75
6. Approval for Intergovernmental Agreement Between City of Gunnison and Board of County Commissioners of the County of Gunnison; for the City of Gunnison Senior Meals Program; Effective date of signing until terminated or modified by its parties; \$38,902 for FY 2023
7. Approval for Colorado Department of Public Health & Environment, Office of Gun Violence Prevention Mini Grant; Gunnison County Substance Abuse Prevention Project (GCSAPP); Extension of funding for training to reduce gun violence and suicides involving firearms; Effective date of signing - 12/31/2023; \$4,300
8. Approval for Intergovernmental Agreement Regarding Undesirable Plant Management 2023; between Gunnison, Saguache, Hinsdale Counties Board of County Commissioners, Town of Crested Butte, City of Gunnison, and Town of Pitkin; to govern the relationship between parties for the management of undesirable plants in the Gunnison Basin; Gunnison County is provider of services 1/01/2023 - 12/31/2023; \$117.50 / hr for noxious weed management
9. Ratification of BOCC signatures for revised Letter of Support; Colorado Parks and Wildlife's America the Beautiful Grant Application
10. Acknowledgment of County Manager's signature; Electric Utility Relocation Agreement; between Gunnison County Board of County Commissioner, Town of Crested Butte, and Gunnison County Electric Association (GCEA); for relocation/realignment of a portion of electric utility infrastructure on real property "TP5" of the Slate River Subdivision

11. Approval for State of Colorado Audit Extension; Gunnison County; to extend deadline for County Audit re Year Ending 12/31/2022 to be completed by 9/30/2023
12. Approval for Community Foundation of the Gunnison Valley 2023 Community Grant Contract; Juvenile Services; funding to support Choice Pass parent education; 7/1/2023 - 5/31/2024; \$2,250
13. Approval for Trade Contract Agreement with Moody Construction & Sons, Inc; for Landfill Liner Expansion Project; timing as specified in a Notice to Proceed - to be provided by the County; not to exceed \$569,722.03

COUNTY MANAGER'S REPORTS: County Manager Matthew Birnie was present in the room to give his report and to answer any questions the Board might have.

1. Sawtooth Affordable Housing Project, Phase 1 update. CM Birnie reported that the project was on track and making good progress – all of the units were now set in place and they were currently working on finishes and connections for electric and other utilities. The board requested a site visit to view the units and also discussed with CM Birnie the precision of the factory-built units and the greatly-shortened time for completion of the project.
2. Whetstone Affordable Housing Project update. CM Birnie stated that they had been meeting with Servitas to put an agreement together with them as the development partner on the Whetstone project.

TREASURER'S REPORT: County Treasurer Debbie Dunbar presented remotely via Zoom, confirming for Chairperson Houck that there was nothing out of the ordinary to report.

With no questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Houck, to accept the Treasurer's reports and authorize the chair's signature. Motion carried unanimously.

VOUCHERS AND TRANSFERS: Chief Financial Officer Perry Solheim was present in the room for discussion and to answer any questions the Board might have.

1. **July 2023 Accounts Payable Report.** Commissioner Puckett Daniels asked about the type of coding on two items in the report, and CFO Solheim let Commissioner Puckett Daniels know what type of transactions each of the codes entailed.

With no further questions from the Board, it was **moved** by Commissioner Houck, seconded by Commissioner Smith, to approve the vouchers in the amount of \$3,077,525.98. Motion carried unanimously.

2. **May 2023 Purchase Card Report.**
3. **June 2023 Cash Transfer Report. Moved** by Commissioner Smith, seconded by Commissioner Houck, to approve the June 2023 Cash Transfer report in the amount of \$6,859,151.67. Motion carried unanimously.
4. **Sales Tax - LMD Reports.** No comments from the Board, other than to note a general flattening out of sales tax revenues; Commissioner Smith recognized the Finance Department for their continued excellent job in retrieving online sales taxes. CFO Solheim noted that April 2023 had felt like a contraction in revenues, but had actually been more like than a normal April based upon that time period's performance in past years. He further noted the upswing in visitors for the summer so far.

RECESS: The meeting recessed from 8:49 am until 9:01 am in order to hold the below Public Hearing.

PUBLIC HEARING ON ESTABLISHING THE DISTRICTS OF THE GUNNISON COUNTY COMMISSIONERS AS A RESULT OF THE 2020 FEDERAL CENSUS: Geographic Information Services Program Manager Mike Pelletier was present in the room for this public hearing.

1. Open Public Hearing. Chairperson Houck opened the Public Hearing at 8:50 am.
2. Public Notice Confirmation. County Attorney Matt Hoyt confirmed that the Public Hearing had been properly public noticed, and that this was included in the meeting portfolio record.
3. Identify Ex Parte Communications. No ex parte communications were received by the commissioners.
4. Staff Presentation. Chairperson introduced the staff presentation by stating that every ten years, after the census, boundaries for the commissioner districts need to be established, based upon very specific state statutes regarding how many people need to be in each district and how the district boundaries are drawn, with no commissioner participation involved in this process. He then invited GIS Program Mgr Mike Pelletier, as the person involved in establishing the boundaries after the 2020 census, to explain his research of the boundaries as they exist and his proposal for updated district boundaries.

GIS Program Mgr Pelletier then shared a table with the Board, showing the populations for both 2010 and 2020 census results. He stated that with 2020 census numbers, the maximum difference in district population numbers was 1.3% - between Districts 1 (5,549) and 3 (5,769). As a result, and with such a small difference between districts, the staff proposed no changes to the boundaries, but added that they could modify boundaries if the Board felt it to be necessary.

5. Applicant Presentation. n/a
6. Board Questions. Commissioner Houck asked whether the statute required deviations between district populations to be no more than a $\pm 5\%$ difference. CA Hoyt confirmed this and explained that in this county, the commissioners are all elected countywide; any boundaries changes here would help determine where the commissioner must reside – following the stipulation that the

commissioner must live in the district he or she is representing. He then outlined several guidelines for considering the ability and need to change boundary lines. GIS Program Mgr Pelletier also confirmed that he used the 2020 census blocks to confirm the populations per district. The Board then briefly discussed what area the population change might have occurred in, since 2010.

7. Public Comments. Chairperson Houck opened the Public Hearing to comments at 8:58 am. He also noted for those listening that this hearing to establish districts had been changed to a year later than normal, as the state had passed a bill to in 2022 to make the deadline one year later.

No one was present remotely via Zoom or in the room to offer public comment.

8. Acknowledge Correspondence Received. No additional correspondence was identified.
9. Applicant Response. n/a
10. Close Public Hearing. Chairperson Houck closed the Public Hearing at 9:01 am and immediately reconvened the meeting of the Gunnison County Board of County Commissioners.

Chairperson Houck then stated that they would go ahead and wait the statutory 30 days before approving a "Resolution Establishing the Districts of Gunnison County Commissioners as a Result of the 2020 Federal Census" – a draft of which had been included in the commissioners' meeting portfolio. He then thanked GIS Program Mgr Mike Pelletier for his work on the districts and their boundary lines.

RESOLUTION; A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO PERTAINING TO OPEN FIRE BANS AND THE IMPOSITION OF FIRE RESTRICTION STAGES AND EXEMPTIONS: As Emergency Management Manager Scott Morrill was not present to introduce this resolution, CA Matt Hoyt explained to the commissioners the responsibilities of the BOCC in regulating fire bans and restriction/exemptions, and that the BOCC had delegated authority in the past to the Sheriff so that he might not have to wait to go through a formal open meeting in order to enact any needed fire action or restriction, lending to much more timely responsiveness on the County's behalf. He added that the resolution was in the same format as the one they had approved last year.

Chairperson Houck stated that it enabled the county to be involved at a quicker, more nimble level, yet not making decisions independently of other agencies, and he could not think of a time where there had been a difference of opinions on the fire stages or regulations.

CM Birnie noted that this was a fairly recent change for delegating authority, and he felt it was good to give the Sheriff the ability to make decisions as needed. CA Hoyt added that the resolution still had a check built in, with the Sheriff being required to report to the BOCC within three business day following any action. He further noted that, with the quickness of moving fires these days, it made the resolution very appropriate, with that check in place.

With no questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Houck, to approve Resolution 2023-16, A Resolution of the Board of County Commissioners of Gunnison County, Colorado Pertaining to Open Fire Bans and the Imposition of Fire Restriction Stages and Exemptions. Motion carried unanimously.

APPROVAL FOR AMENDMENTS TO GUNNISON-CRESTED BUTTE REGIONAL AIRPORT RULES AND REGULATIONS; JULY 2023 DRAFT: Airport Director Rick Lampport and Assistant Stephanie Petsch were both present in the room to explain the amendments and to answer any questions the Board might have.

Chairperson Houck began by asking CM Birnie and CA Hoyt about the Board's authority to approve these amendments, stating that it had been a long time since the Board had seen the anything like this from the Airport. CM Birnie answered that it was not statutorily clear, but that this was what the Board has done in the past, to order to give the County's stamp of approval, and he confirmed that the amendments had not been done for quite a while.

Chairperson Houck then requested Airport Director Lampport to walk the Board through the amendments that he would like to make. Director Lampport began by stating that the amendments were minor editorial changes, nothing significant, but similar to other airports' rules and regulations. He outlined that the purpose of the Airport Rules and Regulations was, through policy, to ensure that the airport operates safely and efficiently, and to prohibit anything that might impact that safe and efficient operation. He confirmed for CA Hoyt that the FAA does not approve airport rules and regulations, but that the airport sponsor does this, and further noted that he would also be bringing to the Board a Minimum Standards Guidelines at a future date, which was more regulatory than what was being presented currently to the Board.

As a redline version of the amendments had not been provided in the meeting portfolio, Director Lampport, upon request, briefly went over some of the minor wording changes made, and the reasons and rules behind these amendments.

With no further questions from the Board, it was **moved** by Commissioner Smith, seconded by Commissioner Houck, to approve the amendments to the Gunnison-Crested Butte Regional Airport Rules and Regulations – July 2023 draft, as presented that morning. Motion carried unanimously.

APPROVAL FOR APPLICATION TO IMPOSE AND USE A PASSENGER FACILITY CHARGE – NOTICE OF INTENT 23-07-C-00-GUC; GUNNISON-CRESTED BUTTE REGIONAL AIRPORT: Airport Director Rick Lampport and Assistant Stephanie Petsch remained in the room to present this item as well, and to answer any questions the Board might have.

Chairperson Houck briefly outlined that the airport is applying to be able to impose a passenger facility charge, and part of the notice of intent is for the Board to authorize that application, with the County Manager to sign the application.

Airport Director Rick Lamport outlined that this charge applies to passengers who are buying a ticket and are departing from an airport, with a maximum charge for a round trip at \$18 - up to two outbound legs and two inbound legs at \$4.50 each leg. Only the FAA is able to approve this charge, and it works with the airport improvement funding (AIP) to collect funds for airport projects which need to be AIP eligible; the airlines collect this on the airport's behalf. Director Lamport then went through the process of putting this application together, and discussed several topics with the BOCC, including: how the funding can be used; what is the cap on fees; time period allowed to collect these fees; and clarification of what fees are charged from each of the airports for a round trip.

CA Hoyt clarified for the Board that the airport is asking for permission to collect these fees, and is also letting the FAA know what they plan to be spending these funds on. The Board discussed for several minutes with CFO Solheim, CM Birnie, CA Hoyt, and Airport Director Lamport what type of projects the airport was hoping to put these funds toward, and requested further clarification on how the monies could be applied.

With no further questions from the Board, it was **moved** by Commissioner Smith to support the application as presented and authorize the County Manager's signature. Commissioner Houck seconded, but requested a friendly amendment to change the word "support" to "approve" the application. Commissioner Smith accepted that amendment. Motion carried unanimously.

2023 BALLOT QUESTION DISCUSSION: Assistant County Manager for Public Works Martin Schmidt was present in the room for discussion and to answer any questions the Board might have.

Chairperson Houck stated that the county's Strategic Plan includes the need to find a way to support revenues for Road & Bridge, noting that the gap between what funding the county has available and what is needed has grown over time. Chairperson Houck added that they would like to discuss what was the best way to present a complete package of information to the community, in order to put this successfully onto a ballot.

ACM Schmidt explained that while he was aware there is a shortfall, they do not yet have hard data of exactly how much that shortfall is. Because they have been delaying maintenance, and because larger projects have not been pursued due to needing grant funding, ACM Schmidt highlighted that they could do a better job of establishing hard data if a consultant were to assist in identifying maintenance and project priorities, costs, and projected benefits. He advised that they have looked at applicants and selected two different consultant groups to interview. The Board, ACM Schmidt, and CM Birnie discussed the benefits to this approach.

Commissioner Houck noted that what he was hearing was they were not quite ready with an informed ask for this year, and so he asked about what would happen if they do not go to the voters this year, but decide to wait a year. The Board, CM Birnie and ACM Schmidt then discussed for several minutes how to keep operating with existing funding through next year, in order to better utilize the insights and recommendations of a consultant. Budget needs, consideration for public engagement in the consultant process, and community outreach were also briefly outlined by ACM Schmidt.

CM Birnie reminded the Board that what they were asking for that day was whether or not they would be sending anything to the County Clerk for this year's ballot.

After each of the Board expressed support for waiting until next year to go to the voters, Chairperson Houck also gave general direction to ACM Schmidt and CM Birnie to work on developing specific needs and cost for projects, so that the community could be better informed before needing to vote on any road and bridge issues put before them.

BUREAU OF LAND MANAGEMENT (BLM) RESOURCE MANAGEMENT PLAN AMENDMENT (RMPA) FOR THE GUNNISON SAGE-GROUSE; COMMENTS: Chairperson Houck briefly went over the background of the Sage-grouse RMPA process, highlighting that Gunnison County was a cooperating agency in the process, and that the Board had formally granted authority to Commissioner Houck to work with Wildlife Biologist Jim Cochran and County Attorney Matt Hoyt in order to submit comments on the County's behalf.

Commissioner Houck informed the Board that the BLM had currently given them twelve days to review a 1,000-page draft; and they were currently going over this draft and preparing comment – reserving their right as cooperating agency to go past the deadline if needed.

Commissioner Houck also stated that their comments would not deviate from the County's historical stance regarding Gunnison Basin Sage-grouse range, and that he desired to make sure that the good work already done is not minimalized and absorbed into the greater range. He further noted that these comments would be representing Gunnison County's perspective; other area agencies involved would have a different role and responsibility in the process.

Overall, Commissioner Houck stated that this was more of an update on the RMPA process; there would be no direction needed at this time. Commissioner Smith thanked Commissioner Houck for the amount of time he has given to the project and for bringing his extensive knowledge and past background in working on the Gunnison Basin Sage-grouse Strategic Committee. She added that she is looking forward to reviewing the comments, but conclude that she was very confident in Commissioner Houck's ability to represent them.

APPROVAL FOR INTERGOVERNMENTAL AGREEMENT (IGA) FOR DISPOSAL OF CARCASSES; COLORADO PARKS AND WILDLIFE (CPW); FOR DISPOSAL OF AGRICULTURAL CARCASSES, PER CPW PROGRAM WITH 30 LANDOWNER PARTICIPANTS; EFFECTIVE DATE OF SIGNING, ANNUAL RENEWAL; 50% DISCOUNT ON COUNTY LANDFILL RATES: Assistant County Manager for Public Works Martin Schmidt, present in the room, and CPW Wildlife Conservation Biologist Nate Seward, present remotely via Zoom, were in attendance to go over the IGA with the Board, and to answer any questions they might have.

Commissioner Smith began by highlighting that the mitigation of carcasses helped to reduce the number of predators in the area - important to Sage-grouse survival. She added that she was pleased to see those listed in the IGA had come to an agreement, and also suggested that the language might need future updates, in view of the upcoming introduction of wolves.

Conservation Biologist Nate Seward informed the Board that there has been an agreement already in place with CDOT and the County for years; he felt that it had not been much of a reach to extend this program with the discounted rate to their larger agriculture operators in the basin. He explained that CPW would be reducing some of the burden for those producers by collecting the carcasses, covering costs for those who would be participating in the Gunnison Sage-grouse Candidate Conservation Agreement with Assurances (CCAA) program. Mr. Seward further stated that this IGA focused on the conservation of Sage-grouse, specifically the potential predation of young Sage-grouse chicks by common ravens, noting that this effort was a step in the right direction.

Commissioner Houck inquired about the impacts of this program to County operation and revenues. ACM Schmidt answered by observing that animal carcass disposal was not a large amount of funding for the landfill; therefore, he felt that the 50% reduction in the fee charge for single animal disposals would be able to be absorbed. He further noted the project was more about the ways in which the County could contribute to the CCAA program and its goal of Gunnison Sage-grouse preservation.

Commissioner Houck **moved** to approve the IGA for the Disposal of Carcasses, between Gunnison County and Colorado Parks and Wildlife, and to authorize the chair's signature on the agreement. Commissioner Smith seconded. Motion carried unanimously.

CHANGE OF AGENDA: As the meeting was running behind schedule, Commissioner Houck elected to take a break in the meeting from 9:58 am to 10:04 am, instead of after the Sawtooth Project discussion, as had been scheduled.

SAWTOOTH PROJECT; UPDATE AND PHASE 2 DISCUSSION: Assistant County Manager for Operations & Sustainability John Cattles and Assistant County Manager for Community and Economic Development Cathie Pagano were both present in the room, for discussion and to answer questions which the Board might have.

ACM John Cattles began by highlighting that Sawtooth was really one project, but was being built in two phases. Phase 1 was funded, and because it was a county project, it would meet the needs of the community's AMI range much more than a state or federally budgeted project. He stated that Phase 1's goal was to have its anticipated annual revenues of \$250,000 put back toward funding additional affordable housing, as well as helping to fund Phase 2.

ACM Cattles then updated the Board on the progress for Phase 2, outlining that they were currently in the design phase and hoped to begin some of the work this fall. The budget for Phase 2 was \$11,135,000, including monies from a DOLA grant which would cover costs for a solar array and geothermal well field. He advised the Board, that currently, with what was budgeted from the 2023 budget, there was still a funding gap – the rates at which they could borrow monies to finish the project would still leave a revenue gap from rentals at the projected goal of 80% AMI. ACM Cattles advised that they were coming to the Board to ask them to consider using Local Marketing District (LMD) funds for Phase 2 in their 2024 budget – to fill the gap and allow the project to be "cash neutral" with rents set at 80% AMI.

CM Birnie added that they would continue also to seek other funding all through the process, advising that the more equity they can put into the project will help with cash flow to put toward other projects. Commissioner Houck stated that he would want these revenues to be designated back into housing needs.

The commissioners, CM Birnie, and ACM Cattles discussed for several minutes various questions, with topics including: allowance and goals for a renewable stream of housing funding, Phase 2 project timing; LMD funds distribution and approval for \$1 million support from the LMD fund; possibilities for future grants; and community needs and goals centered around housing for families, seniors, and childcare.

Chief Financial Officer Perry, also present in the room, noted that this ask for LMD funds was time-bound and a matter of urgency. Commissioner Houck expressed his hope that the county committing up front will maximize leveraging and opportunities for other funding. He then wrapped up the discussion by stating that the Board approved funding of \$1 million from LMD funds toward the Sawtooth Phase 2 project, understanding that this is what the community voted for and this is a place where they can make an impact on housing needs. He stated that their next steps as a Board would be to look at the 40% cap on LMD funds for the workforce and work together to determine how best to allocate that for housing, childcare, and recreation infrastructure for the long term.

CA Hoyt stated for the record that this action was germane and appropriate to the language on the ballot. Chairperson Houck asked if there was a specific action that needed to be taken at that point. CM Birnie answered that, for now, a consensus from the Board was what was needed; further action would be taken in the strategic planning process and in the budget appropriation process for the next year.

UNSCHEDULED CITIZENS: There was no one present in the room or remotely via Zoom for public comment.

COMMISSIONER ITEMS:

Commissioner Smith

1. Out of town for most of June to attend an intensive leadership program. Commissioner Smith reported that she had been away much of June attending an intensive 3-week leadership program at Harvard University in Boston. This was a program for senior executives and state and local government leaders. She related that she found the program very rewarding, and that it was powerful learning from esteemed thinkers and leaders, regarding topics which touched on every aspect of local government. Commissioner Smith also expressed her gratitude to the Gates Family Foundation, which funded this program for seven Coloradoans in 2023.
2. Southwest Colorado Opioid Regional Council (SWCORC). Commissioner Smith outlined that SWCORC was finally in the process of finalizing negotiations with United Way of Mesa County – the organization selected by the council to take on the RFP and contracting process. She outlined that this should help with getting resources out to the region’s communities, and noted that United Way had been very generous with them, taking only 4% for administration.
3. Working with the Gunnison Cultural Connection. Commissioner Smith informed the Board that the group was planning another Welcoming Week event in the fall, and she was asking for a contribution of around \$1,000 out of the BOCC’s discretionary funds to help make it successful. Commissioner Smith expressed her anticipation of another really great event, and added that several in the community had already reached out to find out how to get involved this year, and that she had been in contact with Western Colorado University, Gunnison County Library, and the Art Center regarding their participation as well. Both Chairperson Houck and Commissioner Puckett Daniels indicated that they supported the contribution. CM Bernie advised Commissioner Smith to let him know when they would want the funds and it would be added to a future agenda.
4. Met with Gunnison Valley Regional Housing Authority (GVRHA) Executive Director Andy Kadlec last week. Commissioner Smith highlighted that she had wanted to catch up on business and projects with Dir Kadlec; she also attended their board meeting last Thursday, July 13th, as well.
5. Attended community meeting with the Wild & Scenic stakeholders committee on Monday night. Commissioner Smith reported that attendees included representatives of Pitkin County, Gunnison County, American Whitewater, and Colorado River District. She noted the interesting and diverse perspectives within the group, and added that they will be holding further in-person meetings in August and September as well. These meetings will be centered around the future of the Crystal River, with educational topics on augmentation, water rights, hydrology and ecology – all designed to help get participants up to speed on context, helping them to assess varying options for enhanced protections on the Crystal River.

Commissioner Puckett Daniels – When asked by Commissioner Houck if there was anything she wished to report on, Commissioner Puckett Daniels indicated that there was not.

Commissioner Houck

1. Worked on responsiveness to the Gunnison Outdoor Resources Protection (GORP) Act. Commissioner Houck outlined for those present that the GORP Act was based directly out of the recommendations in the Gunnison Public Lands Initiative (GPLI). He had met with Delta County, Hinsdale County, and Saguache County Commissioners and coordinated on each county’s requests, in working toward a finalized piece to be introduced to the Senate by Senator Bennet.
2. Gunnison Basin Sage-grouse Resource Management Plan (RMPA) Amendment – Commissioner Houck reported that he and Wildlife Biologist Jim Cochran were continuing work on the county’s comments and as a cooperating agency in the RMPA process.
3. Grand Mesa-Uncompahgre-Gunnison (GMUG) National Forests Plan. Commissioner Houck advised that he had reached out to GMUG Forest Supervisor Chad Stewart, trying to get together for a half-day meeting with him to get the forest plan moving forward, a project which has been paused numerous times since 2006.
4. Will be in Crested Butte tomorrow to welcome the Colorado Water Conservation Board (CWCB). Commissioner Houck highlighted that the CWCB would be holding their meeting in Mt. Crested Butte.
5. Thursday and Friday, July 20-21, the Colorado Parks and Wildlife (CPW) Commission is holding their meeting in Gunnison. Commissioner Houck stated that he wished to attend in order to discuss several items, including wolf reintroduction, Gunnison Sage-grouse, and wildlife corridors.
6. Good feedback for the Carnival location during Cattlemen’s Days. Commissioner Houck reported that he had received good feedback regarding the carnival’s new location – one parent liked the paved locations, as their child came home not coated in dust. Others felt the location was very accessible to the fairgrounds still, and to the whole community. Commissioner Houck noted the overall success of this year’s Cattlemen’s Days.

Commissioner Smith – ADDITIONAL ITEM:

6. Attended Club 20 policy meetings in Pagosa Springs, Colorado on July 12-14. Commissioner Smith added her attendance at this policy meeting, noting the policies unique to Gunnison County and adding her desire to stay involved and give the county a voice.

Commissioner Houck – ADDITIONAL ITEM:

7. Date for a townhall visit from Congresswoman Lauren Boebert’s office. Commissioner Houck let those present know that Rep Boebert’s staff had reached out with a suggested date to hold a Gunnison townhall meeting; however, it had not been date that any of our commissioners were able to be at. He added that he was hoping to work out another date with her staff, and he would keep CM Birnie informed on a future date.

CHANGE IN AGENDA: Due to the meeting being behind schedule, Chairperson Houck elected to take a break from 10:54 am to 11:00 am, in order to hold the Gunnison County Board of Health regular meeting at its scheduled time.

RECESS: Chairperson Houck recessed the Gunnison County Board of County Commissioners regular meeting, in order to hold the below regular meeting for the Gunnison County Board of Health.

Chairperson Houck also noted that he intended to reconvene the Board of County Commissioners regular meeting immediately after the Board of Health meeting, then recess and hold the Executive Session as the last agenda item of the day.

GUNNISON COUNTY BOARD OF HEALTH REGULAR MEETING:

CALL TO ORDER: Chairperson Houck called the meeting to order at 11:00 am.

Present in the room were Assistant County Manager for Health, Human, and Safety Services Joni Reynolds and Medical Health Officer Dr. John Tarr.

SENIOR SERVICES UPDATE: Wellness, Senior & Enforcement Services Manager Betsy Holena was present to give this report and to answer any questions the Board might have.

Mgr Holena advised the Board that their Senior Resource programs are now located under individual and family health in their new strategic plan. They are allowing for 95% of seniors to be able to remain in their homes, and to have 90% of adult protection cases not have to be reopened within a year.

Dr. Tarr observed that the average age of the senior population in the senior care facility in Gunnison exceeds the national average by as much as 40% at times – an attestation of the fact that elders do remain in their homes a longer here than in other parts of the nation. Also, he gave an example of the number who ride bikes and walk, noting that the population here supports an active lifestyle, in support of Mgr Holena’s goals.

Mgr Holena then went over the programs, funding and challenges due to decreasing funding in some of the programs. The impact of this decreased funding and future opportunities were also briefly looked at as well. She explained that they have 4-1/2 people providing services that range from gathering information and making referrals, to options counseling wherein they sit down with family or a caregiver to go over options for an aging plan and services to go along with that. She next outlined the criteria and process for adult protective services, adding that they try to work with families for the least restrictive means, allowing people to self-determine what they want their aging process to look like.

For funding of these programs, Mgr Holena stated that they were supported by Region 10, Next Fifty, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services, Gunnison County, and Community Services Block Grant. She advised that the federal Funding for Older Americans Act is expected to decrease funding significantly, so they were looking for other sources of funding to support the services they currently have. Also, she reported that they did receive a NextFifty grant that will help backfill the monies being lost by a decrease in Region 10 funding.

For the Senior Meal Program, the County funds \$38,000 per year to the program and provides referrals to any older adult on their low-income program. Overall, Mrg Holena outlined, they seek to broker resources for older citizens, connecting them to services that they might need to help them stay in their homes and on fixed incomes. Dr. Tarr also noted that social needs are enormous in this community, and that Medicare support is also very restrictive for many, so that having senior resources available to help support the socio/economic needs of the community’s aging population is critical.

The Board discussed with Mgr Holena, Dr. Tarr and ACM Reynolds topics around Senior Services, including: state of senior housing, in consideration of the area’s current real estate market; lack of availability to downsize homes or rent; the lack of local Medicaid providers for home services; and possible resources or alternatives for filling the gaps.

COMMUNITY HEALTH; ASSESSMENT AND HEALTH IMPROVEMENT PLAN UPDATE: Community Health Manager Margaret Wacker, West Central Public Health Partnership (WCPHP) Grants Manager Erika Stoerkel, and HHS Intern Nola Hadley were present in the room to give the update and to answer any question the Board might have.

CH Mgr Wacker introduced both WCPHP Grants Manager Ericka Stoerkel and HHS Summer Intern Nola Hadley to the commissioners, then went into a slide presentation of her Community Health Assessment.

The presentation included a timeline from Fall 2022 to Summer/Fall 2023, showing times for data reviews, community engagement and their prioritization and planning processes. The results will be submitted to the State Board of Health. Next, she outlined several demographics for Gunnison County residents. Demographics covered: population (Gunnison experienced a 10.4% population increase from 2010 to 2020); ethnicity (86.52% of the county identified as Non-Hispanic White, with Hispanic or Latino next at 9.56%); age (the largest two ages groups were 20-24 years and 35-39, with only 144 at 85 years and older); percentage of linguistically isolated households (10.2% for Gunnison County); percentage of persons in Poverty (12.3% for Gunnison County); median household income (\$63,341 for Gunnison County); Behavioral Health data on Adult Current Smokers, Binge Drinking, No Leisure Time Activity, and Child Maltreatment Rate; Aging in Place data; Access to care for adults and children; percentage of population receiving SNAP benefits; and Healthy Eating/Active Living data.

Mgr Wacker also outlined the goals and process they used for prioritization of topics as they updated the regional Community Health Assessment, comparing them to past priorities and top issues from 2022 and 2023. The results showed the top three priorities as: 1) Behavioral and Mental Health; 2) Aging in Place; and 3) Prevention & Education Health (chronic diseases, women’s health, cancer). Priorities for the years 2024-2028 were also covered, with top priorities identified as Behavioral and Mental Health, and Capacity Building for the regional West Central Public Health Partnership (WCPHP).

The Board, ACM Joni Reynolds, and Mgrs Wacker and Stoerkel then discussed several issues, including: public health system swamped during the COVID pandemic; moving forward through staff and funding losses; building capacity to offer services to this region; data on poverty levels for Gunnison County; and how the West Central Public Health Partnership is beneficial to it’s participating counties.

ADJOURN: Chairperson Houck thanked ACM Reynolds, the Health and Human Services staff, and Dr. Tarr for joining the meeting, and then adjourned the Gunnison County Board of Health regular meeting at 11:56 am.

RECONVENE: Chairperson Houck reconvened the Board of County Commissioners regular meeting at 11:56 am.

RECESS: Chairperson Houck recessed the meeting from 11:56 am until 12:46 pm, in order to hold the below executive session.

EXECUTIVE SESSION, PURSUANT TO C.R.S. § 24-6-402 (4)(E)(I): DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS RELATED TO REAL PROPERTY LOCATED IN GUNNISON COUNTY, COLORADO: Chairperson Houck **moved** to go into Executive Session, pursuant to C.R.S. § 24-6-402(4)(e)(I), determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations related to real property located in Gunnison County, Colorado. The participants in the Executive Session would be Commissioner Houck, Commissioner Smith, Commissioner Puckett Daniels (remotely via Zoom), County Manager Matthew Birnie, County Attorney Matthew Hoyt, and Assistant County Manager for Public Works Martin Schmidt. Commissioner Smith seconded. Motion carried unanimously.

The Board went into executive session at 11:57 am. The executive session was held in the BOCC Boardroom. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. §24-6-402(4). This specific session was conducted as per §24-6-402 (4)(e)(I).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(4), I attest that I am the Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. § 24-6-402(4)(e)(I).

Date: _____

Matthew Hoyt
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(4), I attest that I am the Chairperson of the Gunnison County Board of Commissioners, that I attended all of the above referenced executive session, and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. § 24-6-402(e)(I).

Date: _____

Jonathan Houck, Chairperson

Gunnison County Board of Commissioners

At 12:46 am, it was **moved** by Chairperson Houck to come out of executive session, affirming that the participants in the executive session remained consistent with those read into the record, and that they did stay on topic. No decisions were made within the executive session. Commissioner Smith seconded the motion. Motion carried unanimously.

Chairperson Houck then informed those present that no guidance would be needed from the Board.

ADJOURN: Chairperson Houck adjourned the Gunnison County Board of County Commissioners regular meeting at 12:46 pm.

Jonathan Houck, Chairperson

Liz Smith, Vice-Chairperson

Laura Puckett Daniels, Commissioner

Minutes Prepared By:

Melanie Bollig, Deputy County Clerk

Attest:

Kathy Simillion, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. 23-15**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO
PERTAINING TO OPEN FIRE BANS AND THE
IMPOSITION OF FIRE RESTRICTION STAGES AND EXEMPTIONS

WHEREAS, the Board of County Commissioners of Gunnison County ("Board"), pursuant to C.R.S. §§ 30-11-101(2) and 30-15-401, et seq. has the general enabling power to adopt ordinances, resolutions, rules and other regulations as may be necessary for the control or licensing of those matters of purely local concern, and to do all acts which may be necessary or expedient to promote the health and welfare of the residents and visitors of Gunnison County ("County"); and

WHEREAS, the Board may adopt ordinances to ban open fires and impose fire restriction stages within those portions of the unincorporated areas of the County where the danger of forest or grass fires is found to be high, pursuant to C.R.S. § 30-15-401(1)(n.5); and

WHEREAS, the Board is authorized to prohibit the sale, use, and possession of fireworks, including permissible fireworks, within those portions of the unincorporated areas of the County, pursuant to C.R.S. § 30-15-401(1)(n.7); and

WHEREAS, the Board passed Ordinance Nos. 8a, 14, 16, and 20 relating to fire bans and fire restrictions, including penalties for the violation of those Ordinances; and

WHEREAS, the Board acknowledges that from time-to-time fire conditions resulting from extended hot, dry and windy weather in the area make it prudent to impose restrictions on open fires, open burning and sale, use and possession of fireworks in order to reduce the danger of wildfire in the unincorporated areas of the County; and

WHEREAS, the Board specifically finds that in certain high fire-danger conditions such restrictions are in the best interests of the residents and visitors of the County in order to preserve the health, safety and welfare of the residents and visitors; and

WHEREAS, the Gunnison County Sheriff ("Sheriff") is authorized pursuant to C.R.S. §§ 30-10-512 and 30-10-513 to act as fire warden of the County and is responsible for coordination of fire suppression efforts in case of prairie, forest or wildland fires or wildfires occurring in unincorporated areas of the County outside the boundaries of a fire protection district or that exceed the capabilities of the fire protection district to control; and

WHEREAS, the Board believes that the Sheriff, as fire warden, is the appropriate person, using their expertise and discretion along with established fire restriction evaluation guidelines, and in consultation with local Fire Chiefs, State and Federal land management agencies, and State and Federal fire suppression authorities, to determine whether a restriction of open fires, open burning and use of fireworks should be implemented or elevated in times of extreme fire danger or suspended during times of decreased fire danger;

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

1. The Sheriff or their designee shall have the authority, in collaboration with local Fire Chiefs, State and Federal land management agencies, and State and Federal fire suppression authorities to declare Stage I or Stage II Restrictions regarding open fire, open burning or the sale, use or possession of fireworks, whenever the danger of forest or grass fires is found to be high and without the need for further proceedings or resolution ("Restrictions"). The Sheriff or their designee shall also have the authority to rescind those Restrictions when he or she determines it is appropriate considering the current fire danger.
 - a. Stage I Restrictions shall allow the Sheriff to impose the following prohibitions:
 - i. Building, maintaining, attending or using a fire, campfire or stove fire, including but not limited to agricultural and the burning of trash or debris, except:
 - 1) Building, maintaining, attending or using a fire in constructed, permanent fire pits or fire grates within developed recreation sites;
 - 2) Fires fueled by gas, jellied petroleum, or pressurized liquid fuel; or
 - 3) Fires burned in portable chimineas, fire pits and tiki torches wholly on or within private property.
 - ii. Smoking, except:
 - 1) within an enclosed vehicle or building; or
 - 2) in a developed recreation site or while stopped in an area at least three feet (3') in diameter that is barren or clear of all flammable materials.
 - iii. Restrictions or prohibitions on the sale, use and possession of fireworks pursuant to C.R.S. § 30-15-401(1)(n.7).
 - iv. Using explosives, including but not limited to fuses or blasting caps, model rockets, exploding targets, tracer bullets or incendiary rounds.
 - v. Welding or operating acetylene or other torch with open flame except in cleared areas of at least 10 feet (10') in diameter and in possession of a chemical pressurized fire extinguisher with a minimum rating of 2A.
 - vi. Operating or using internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order.
 - b. Stage II Restrictions shall allow the Sheriff to impose the following prohibitions:
 - i. Building, maintaining, attending or using a fire, campfire or stove fire including but not limited to:
 - 1) Agricultural burning and the burning of trash or debris;
 - 2) Maintaining, attending or using a fire in constructed, permanent fire pits or fire grates within developed recreation sites;
 - 3) Fires fueled by gas, jellied petroleum, or pressurized liquid fuel, except that devices using pressurized liquid fuel or gas (e.g., stoves, grills or lanterns and shut-off valves are allowed when used at least three (3') or more from flammable material such as grasses or pine needles; and
 - 4) Fires burned in portable chimineas, fire pits and tiki torches.
 - ii. Smoking, except within an enclosed vehicle or building.
 - iii. Restrictions or prohibitions on the sale, use and possession of fireworks pursuant to C.R.S. § 30-15-401(1)(n.7).
 - iv. Operating a chainsaw or other equipment powered by an internal combustion engine without a USDA or SAE approved spark arrester properly installed and in effective working order, a chemical pressurized fire extinguisher with a minimum rating of 2A kept with the operator, and round point shovel with an overall length of at least 35 inches (35") readily available for use.
 - v. Welding, operating a torch with open flame, or any activities which generate flame or flammable material.
 - vi. Using explosives, including but not limited to fuses or blasting caps, model rockets, exploding targets, tracer bullets or incendiary rounds.
 - vii. Operating or using internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order.
 - viii. Possessing or using a motor vehicle off established roads, motorized trails or established parking areas, except when parking in an area devoid of vegetation within ten feet (10') of the vehicle.

- c. Stage III Restrictions may only be imposed by the Board by duly adopted Resolution or Ordinance.
- 2. Any declaration by the Sheriff or their designee of Restrictions shall specify the Stage level, parameters, and the duration of the Restrictions as deemed necessary and appropriate. The Sheriff or their designee shall promptly coordinate notification to the public through press release(s) to local radio and print media, as well as posting on the County Internet Website and County Sheriff's Office Facebook page. Likewise, when conditions indicate a reduction or the suspension of Restrictions, the same notification to the public shall occur.
- 3. No less than three (3) business days after imposing or suspending any Restriction pursuant to this Resolution, the Sheriff shall present, for ratification by the Board, a written summary of the competent evidence and recommendations that are or were the basis of the decision to impose or suspend the Restriction. Notwithstanding the above, the Sheriff will engage in all reasonable efforts to immediately notify the members of the Board, the County Manager and the County Attorney regarding the imposition, modification or lifting of any Restrictions.
- 4. Nothing in this Resolution shall be construed to allow the burning or combustion of any material or any burning or fire activity otherwise prohibited by law.
- 5. The Sheriff or their designee shall consult with various state and federal land management agencies and obtain their recommendation prior to the Sheriff imposing or suspending any Restrictions. Recommendations shall be made pursuant to Fire Restriction Evaluation Guidelines as currently used by such agencies to evaluate the indicators that predict fire danger. Upon any implementation or suspension of Restrictions, the Sheriff or their designee shall coordinate and cooperate with these agencies to enforce the Restrictions.
- 6. This Resolution shall be enforced by the Sheriff or their designee, through his Deputies, the Fire Chief or their designee of any fire protection district or administering agencies of the state and federal lands located therein, and they shall have authority to order any person to immediately cease any violation of this Resolution. This shall include the right to issue a penalty assessment notice and the right to take such person or persons violating this Resolution into temporary custody.
- 7. Pursuant to Ordinance No. 20, any person who violates this Resolution commits a civil infraction and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars for each separate offense. The penalty assessment procedure provided in C.R.S. § 16-2-201, as amended, may be followed by any arresting law enforcement officer for any such violation. That penalty assessment procedure shall provide for a fine of five hundred dollars (\$500.00) for each separate offense and a fine of one thousand dollars (\$1,000.00) for any repeat offense by the same individual. Pursuant to C.R.S. § 30-15-402(2)(a), in addition to the foregoing penalties, persons convicted of a violation of this Resolution are subject to a surcharge of ten dollars (\$10.00) to be paid to the clerk of the Gunnison County Court by the defendant, as well as any other penalties or surcharges set forth in C.R.S. § 30-15-402, as amended, or as otherwise provided by law.
- 8. If any section, subsection, clause or sentence of this Resolution is judged by a court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate any other provisions of this Resolution which can be given effect without the invalid provision.
- 9. The Board hereby finds, determines and declares that this Resolution is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Gunnison County, Colorado because of the high danger of forest or wildland fires occurring in all unincorporated areas of the County. This Resolution shall take effect immediately upon adoption and remain in full force and effect until midnight Mountain Time, December 31, 2023 at which point this Resolution shall expire and no longer remain in effect, or until rescinded by subsequent Resolution or Ordinance adopted by the Board, whichever first occurs.

INTRODUCED by Commissioner Smith, seconded by Commissioner Houck, and adopted this 18th day of July, 2023.

BOARD OF COUNTY COMMISSIONERS
GUNNISON COUNTY

Houck – yes; Smith – yes; Puckett Daniels – yes

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Acceptance of Appointments; US Department of the I

Action Requested: Motion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Please see the letter requesting that prior alternate Creed Clayton be replaced by Nathan Darnell. Note: He will be serving out the remainder of Creed's term to 2/1/2024.

Fiscal Impact:

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023



United States Department of the Interior



IN REPLY REFER TO:
FWS/R6

FISH AND WILDLIFE SERVICE Colorado Ecological Services Field Office

445 W. Gunnison Ave Suite 240
Grand Junction, Colorado 81501-5711

August 1, 2023

Board of County Commissioners
Gunnison County
200 E. Virginia Avenue
Gunnison, Colorado 81230

Gunnison County Commissioners and Gunnison Basin Sage-grouse Strategic Committee:

The U.S. Fish and Wildlife Service (Service) would like to formally change our alternate member in the Gunnison Basin Sage-grouse Strategic Committee. Previously, Whit Blair, the Gunnison Sage-grouse Biologist for the Colorado Field Office Western Team, was the voting member and Creed Clayton, the acting Colorado Field Office Western Team Supervisor, was the alternate member. The Service would like to maintain Whit Blair as the voting member and to make Nathan Darnall, the Western Colorado Field Office Supervisor, the alternate member. Nathan Darnall's contact information is nathan_darnall@fws.gov.

If you have any questions, please contact Whit Blair at 970-628-7191, or at whit_blair@fws.gov.

Sincerely,

Nathan Darnall
Western Colorado Supervisor
Colorado ES Field Office

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Authorization for County Manager's signature on fi

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Adena corporation

Term Begins:

Term Ends:

Grant Contract #:

Summary:

agreement for general contracting services for the CB shop renovation

Fiscal Impact: 1385882

Submitted by: John Cattles

Submitter's Email Address: jcattles@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 7/28/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 7/27/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 7/27/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/28/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023



ConsensusDocs®
BUILDING A BETTER WAY

ConsensusDocs® 230
STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND
CONSTRUCTOR (Cost of the Work Plus a Fee with GMP)



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ConsensusDocs® 230
STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND
CONSTRUCTOR (Cost of the Work Plus a Fee with GMP)

TABLE OF ARTICLES

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ARTICLE 1 AGREEMENT

Job Number: [] Account Code: []

This Agreement is made this 21 day of July in the year 2023,

by and between the

OWNER Gunnison County

and the

CONSTRUCTOR Adena Corporation

Tax identification number (TIN) 34-1376430

Contractor License No., if applicable []

for construction and services in connection with the following

PROJECT Renovation of the Gunnison County Division 3 Shop (Crested Butte).

Design Professional is TBD.

ARTICLE 2 GENERAL PROVISIONS



2.1 PARTIES' RELATIONSHIP Each Party agrees to act on the basis of mutual trust, good faith, and fair dealing, and perform in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Neither Constructor nor any of its agents or employees shall act on behalf of or in the name of Owner.

2.2 ETHICS Each Party shall perform with integrity. Each shall (a) avoid conflicts of interest; and (b) promptly disclose to the other Party any conflicts that may arise. Each Party warrants it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including agents, officers, employees, Subcontractors, Subsubcontractors, Suppliers, or Others to secure preferential treatment.

2.3 DESIGN PROFESSIONAL Owner, through its Design Professional, shall provide all architectural and engineering design services necessary for the completion of the Work, excluding, however, (a) design services delegated to Constructor in accordance with §3.16, and (b) services within the construction means, methods, techniques, sequences, and procedures employed by Constructor, its Subcontractors and Subsubcontractors in connection with their construction operations.

2.3.1 Owner shall obtain from Design Professional either a license for Constructor and Subcontractors to use the design documents prepared for the Project by Design Professional or ownership of the copyrights for such design documents, and Owner shall indemnify and hold harmless Constructor against any suits or claims of infringement of any copyrights or licenses arising out of the use of such design documents.

2.4 DEFINITIONS

2.4.1 "Agreement" means this ConsensusDocs 230 Standard Agreement and General Conditions Between Owner and Constructor (Basis of Payment is Cost of the Work Plus a Fee with GMP), as modified by the Parties, and exhibits and attachments made part of this agreement upon its execution.

2.4.1.1 The following exhibits are part of this Agreement:
Exhibit A: Scope of the Work, 4 pages.

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 A "Change Order" is a written order signed by the Parties after execution of this Agreement, indicating a change in the scope of Work, GMP, or Contract Time, including substitutions proposed by Constructor and accepted by Owner.

2.4.4 "Constructor" is the person or entity identified in ARTICLE 1. References to General Contractor or Contractor in the Contract Documents may be a reference to Constructor.

2.4.5 "Constructor's Contingency" is the difference between the GMP and the estimated Cost of the Work plus the Constructor's Fee.

2.4.6 "Constructor's Fee" is the compensation paid to Constructor for salaries and other mandatory or customary compensation of Constructor's employees at its principal and branch offices except employees listed in §8.1.2, general and administrative expenses of Constructor's principal and



branch offices other than the field office, and Constructor's capital expenses, including interest on Constructor's capital employed for the Work, and profit.

2.4.7 "Contract Documents" consist of (a) this Agreement, (b) documents listed in §15.1 as existing contract documents, (c) drawing, specifications, addenda issued and acknowledged before execution of this Agreement, (d) information furnished by Owner pursuant to §3.14.4, and (e) Change Orders, Interim Directives, and amendments issued in accordance with this Agreement.

2.4.8 "Contract Price" is the amount indicated in ARTICLE 8 and represents full compensation for performance by Constructor of the Work in conformance with the Contract Documents.

2.4.9 "Contract Time" is the period between the Date of Commencement and Final Completion.

2.4.10 "Cost of the Work" means the costs and discounts specified in ARTICLE 8.

2.4.11 "Date of Commencement" is as set forth in §6.1.

2.4.12 "Day" means a calendar day.

2.4.13 "Defective Work" is any portion of the Work that does not conform to the requirements of the Contract Documents.

2.4.14 "Design Professional" means the licensed architect or engineer, and its consultants, retained by Owner to perform design services for the Project.

2.4.15 "Final Completion" occurs on the date when Constructor's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by the Parties.

2.4.16 "Hazardous Material" is any substance of material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

2.4.17 "Interim Directive" is a written order containing Work instructions directed by Owner pursuant to §9.2 and that is signed by Owner after execution of this Agreement and before Substantial Completion.

2.4.18 "Law" means federal, state, or local law, ordinance, code, rule, and regulation applicable to the Work with which Constructor must comply that are enacted as of the Agreement date.

2.4.19 "Others" means Owner's other (a) contractors, (b) suppliers, (c) subcontractors, subsubcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

2.4.20 "Overhead" means (a) payroll costs, burden, and other compensation of Constructor's employees in Constructor's principal and branch offices; (b) general and administrative expenses of Constructor's principal and branch offices including charges against Constructor for delinquent payments, and (c) Constructor's capital expenses, including interest on capital used for the Work.

2.4.21 "Owner" is the person or entity identified in ARTICLE 1.



2.4.22 "Parties" are collectively Owner and Constructor.

2.4.23 "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Constructor is to perform Work under this Agreement. It may also include construction by Owner or Others.

2.4.24 "Schedule of the Work" is the document prepared by Constructor that specifies the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner.

2.4.25 "Subcontractor" is a person or entity retained by Constructor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. Subcontractor does not include Design Professional or Others.

2.4.26 "Substantial Completion of the Work," or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unapproved disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Constructor's control. This date shall be confirmed by a certificate of Substantial Completion signed by the Parties.

2.4.27 "Subsubcontractor" is a person or entity who has an agreement with a Subcontractor, another subsubcontractor, or Supplier to perform any portion of the Work or to supply material or equipment.

2.4.28 "Supplier" is a person or entity retained by Constructor to provide material or equipment for the Work.

2.4.29 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.30 "Work" means the construction and services necessary or incidental to fulfill Constructor's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.4.31 "Worksite" means the area of the Project location identified in ARTICLE 1 where the Work is to be performed.

ARTICLE 3 CONSTRUCTOR'S RESPONSIBILITIES

Constructor shall use its diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. Such Work includes furnishing construction administration and management services.



3.1 GENERAL RESPONSIBILITIES

3.1.1 Constructor shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord with the Contract Documents and shall include any Work reasonably inferable from the Contract Documents.

3.1.2 Constructor represents that it is an independent contractor and that it is familiar with the type of work required by this Agreement.

3.1.3 Unless the Contract Documents instruct otherwise, Constructor shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized. When following construction means, methods, techniques, sequences, or procedures instructed by the Contract Documents, Constructor is not liable to Owner for damages resulting from compliance with such instructions unless (a) Constructor recognized and (b) failed to timely report to Owner any error, inconsistency, omission, or unsafe practice that it discovered in such requirements.

3.1.4 Constructor shall perform Work only within locations allowed by the Contract Documents, Law, and applicable permits.

3.2 COOPERATION WITH WORK OF OWNER AND OTHERS

3.2.1 Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, cleanup, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.2.2 If Owner elects to perform work at the Worksite directly or by Others, the Parties shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Constructor and to assist with the coordination of activities and the review of construction schedules and operations. In accordance with §6.3, Contract Price and Contract Time may be equitably adjusted for changes resulting from the coordination of construction activities, and the Schedule of the Work shall be revised accordingly.

3.2.3 With regard to the work of Owner and Others, Constructor shall: (a) proceed with the Work in a manner that does not hinder, delay, or interfere with the work of Owner or Others or cause the work of Owner or Others to become defective; (b) afford Owner and Others reasonable access for introduction and storage of their materials and equipment and performance of their activities; and (c) coordinate Constructor's Work with theirs.

3.2.4 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Constructor shall give Owner prompt written notification of any defects Constructor discovers in their work which will prevent the proper execution of the Work. Constructor's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Constructor does not notify Owner of defects interfering with the performance of the Work, Constructor acknowledges that the work of Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Constructor of defects, Owner shall promptly issue an Interim Directive informing Constructor what action, if any, Constructor shall take with regard to the defects.



3.3 CONTRACT DOCUMENT REVIEW

3.3.1 Before commencing the Work, Constructor shall examine and compare the drawings and specifications with information furnished in the Contract Documents, relevant field measurements made by Constructor, and any visible conditions at the Worksite affecting the Work.

3.3.2 Should Constructor discover any errors, omissions, or inconsistencies in the Contract Documents, Constructor shall promptly report them to Owner. It is recognized, however, that Constructor is not acting in the capacity of a licensed design professional, and that Constructor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with a Law, building code, or regulation. Following receipt of written notice from Constructor of errors, omissions, or inconsistencies, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the errors, omissions, or inconsistencies.

3.3.3 In accordance with this Agreement, Constructor may be entitled to adjustments of the Contract Price or Contract Time because of clarifications or instructions arising out of Constructor's reports described in this §3.3.

3.3.4 Nothing in §3.3 shall relieve Constructor of responsibility for its own errors, inconsistencies, or omissions.

3.4 CONSTRUCTION PERSONNEL AND SUPERVISION

3.4.1 Constructor shall provide competent supervision for the performance of the Work. Before commencing the Work, Constructor shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager so Owner may review their qualifications. If, for reasonable cause, Owner refuses to approve an individual, or withdraws its approval after once giving it, Constructor shall name a different superintendent or project manager for Owner's review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

3.4.2 Constructor shall be responsible to Owner for acts or omissions of a person or entity performing on behalf of Constructor or any of its Subcontractors and Suppliers.

3.4.3 Constructor shall permit only qualified persons to perform the Work. Constructor shall enforce safety procedures, strict discipline, and good order among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned Work, Constructor shall immediately reassign the person upon receipt of Owner's Interim Directive to do so.

3.4.4 CONSTRUCTOR'S REPRESENTATIVE Constructor's authorized representative is Josh Darling. Constructor's Representative shall possess full authority to receive instructions from Owner and to act on those instructions. If Constructor changes its representative or the representative's authority, Constructor shall immediately notify Owner in writing.

3.5 GUARANTEED MAXIMUM PRICE (GMP)

3.5.1 The GMP is the maximum amount Owner shall pay to Constructor for the performance of the Work and shall include the estimated Cost of the Work as defined in ARTICLE 8 and Constructor's Fee as defined in ARTICLE 7. The GMP shall be subject to modification as provided in ARTICLE 9.

Comment [JC1]: County has budgeted \$1,385,882



Constructor does not guarantee any specific line item provided as part of the GMP, but agrees that it will be responsible for paying all costs of completing the Work that exceed the GMP, as adjusted in accordance with this Agreement. Owner and Constructor agree that the GMP

_____ is identified in an amendment attached hereto or

___X___ shall be determined in accordance with §3.5.2 below.

3.5.2 BASIS OF GUARANTEED MAXIMUM PRICE If the GMP has not been established prior to execution of this Agreement as identified in §3.5.1 above, Constructor shall prepare for Owner a GMP Proposal. Constructor shall include as part of the GMP Proposal a written statement of its basis, which, to the extent deemed necessary by Owner or Constructor, shall include:

3.5.2.1 list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

3.5.2.2 list of allowances and a statement of their basis;

3.5.2.3 list of the assumptions and clarifications made by Constructor in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

3.5.2.4 Date of Substantial Completion and Date of Final Completion upon which the GMP is based, and the Schedule of Work upon which Date of Substantial Completion and Date of Final Completion are based;

3.5.2.5 schedule of applicable alternate prices;

3.5.2.6 schedule of applicable unit prices;

3.5.2.7 statement of Additional Services included, if any;

3.5.2.8 statement of Constructor's Contingency, if any, as either a lump sum or as a percentage of the initial estimated Cost of the Work;

3.5.2.9 statement of any work to be self-performed by Constructor; and

3.5.2.10 statement identifying all patented or copyrighted materials, methods, or systems selected by Constructor and incorporated in the Work that are likely to require the payment of royalties or license fees.

3.5.3 Constructor shall meet with Owner and Design Professional to review the GMP Proposal. If Owner or Design Professional discovers any inconsistencies, inaccuracies, or omissions in the information presented, they shall promptly notify Constructor, who shall make appropriate adjustments to the GMP. Owner shall then give prompt written approval of the GMP Proposal at which time it becomes an amendment to this Agreement.

3.5.4 Owner shall cause Design Professional to revise the drawings and specifications to the extent necessary to reflect the clarifications, assumptions, and allowances on which the GMP is based. Revised drawings and specifications shall be furnished to Constructor in accordance with the current Schedule of the Work, unless otherwise agreed by Owner and Constructor. Constructor



shall promptly notify Owner and Design Professional if the revised drawings and specifications are inconsistent with the GMP's clarifications, assumptions, and allowances.

3.5.5 If the Contract Documents are not complete at the time the GMP Proposal is submitted to Owner, Constructor shall provide in the GMP for further development of the Contract Documents. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

3.5.6 FAILURE TO ACCEPT THE GMP PROPOSAL Unless Owner accepts the GMP Proposal in writing on or before the date specified in the GMP Proposal for such acceptance and so notifies Constructor, the GMP Proposal shall not be effective. If Owner fails to accept the GMP Proposal, or rejects the GMP Proposal, Owner shall have the right to:

3.5.6.1 suggest modifications to the GMP Proposal. If such modifications are accepted in writing by Constructor, the GMP Proposal shall be deemed accepted in accordance with §3.5.3 at which time it becomes an amendment to this Agreement. If such modifications are not accepted, Constructor may either offer a new GMP Proposal, or terminate the Agreement with the Parties to bear their own costs except as otherwise provided in §12.4.2, or

3.5.6.2 terminate the Agreement for convenience in accordance with §12.4.

3.5.7 If Owner does not either (a) accept the GMP Proposal in writing, (b) suggest modifications in accordance with §3.5.7.1, or (c) terminate the Agreement for convenience as contemplated by §3.5.7.2 on or before the date specified in the GMP Proposal for such acceptance, Constructor may terminate the Agreement with the Parties to bear their own costs except as otherwise provided in §12.4.2.

3.5.8 PRE-GMP WORK Prior to Owner's acceptance of the GMP Proposal, Constructor shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as Owner may specifically authorize in writing.

3.6 WORKMANSHIP The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as may be otherwise provided in the Contract Documents.

3.7 MATERIALS FURNISHED BY OWNER OR OTHERS If the Work includes installation of materials or equipment furnished by Owner or Others, it shall be the responsibility of Constructor to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Constructor shall be the responsibility of Constructor and may be deducted from any amounts due or to become due Constructor. Any defects discovered in such materials or equipment shall be reported at once to Owner. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.8 TESTS AND INSPECTIONS



3.8.1 Constructor shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. Constructor shall give proper notice to all required parties of such tests, approvals, and inspections. If feasible, Owner and Others may timely observe the tests at the normal place of testing. Except as provided in §3.8.3, Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents, which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by Constructor and promptly delivered to Owner.

3.8.2 If Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, Constructor shall arrange for the procedures and give timely notice to Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at Owner's expense except as provided in the subsection below.

3.8.3 If the procedures described in §3.8.1—§3.8.2 indicate that portions of the Work fail to comply with the Contract Documents, Constructor shall be responsible for the costs of correction and retesting.

3.9 WARRANTY

3.9.1 Constructor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At Owner's request, Constructor shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Constructor further warrants that the Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Constructor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by Owner or others, or abuse. Constructor's warranty shall commence on the Date of Substantial Completion of the Work or of a designated portion.

3.9.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by Owner; they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

3.9.3 Constructor shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Constructor's liability for such warranties shall be limited to the one-year correction period as provided in the section below. After that period, Constructor shall provide reasonable assistance to Owner in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

3.10 CORRECTION OF WORK WITHIN ONE YEAR

3.10.1 Before Substantial Completion and within one year after the date of Substantial Completion of the Work, if any Defective Work is found, Owner shall promptly notify Constructor in writing. Unless Owner provides written acceptance of the condition, Constructor shall promptly correct the



Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not promptly notify Constructor or give Constructor an opportunity to test or correct Defective Work as reasonably requested by Constructor, Owner waives Constructor's obligation to correct that Defective Work, as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.10.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of the Work is substantially complete. Correction periods shall not be extended by corrective work performed by Constructor.

3.10.3 If Constructor fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Constructor. If payments then or thereafter due Constructor are not sufficient to cover such amounts, Constructor shall pay the difference to Owner.

3.10.4 Constructor's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Constructor and allow Constructor an opportunity to correct the Work if Constructor elects to do so. If Constructor elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Constructor does not elect to correct the Work, Owner may have the Work corrected by itself or others, and, if Owner intends to seek recovery of those costs from Constructor, Owner shall promptly provide Constructor with an accounting of the actual correction costs.

3.10.5 If Constructor's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, Constructor shall be responsible for the cost of correcting such damage.

3.10.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Constructor's other obligations under the Contract Documents.

3.10.7 Before final payment, at Owner's option and with Constructor's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such case, the GMP shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

3.11 CORRECTION OF COVERED WORK

3.11.1 Upon issuance of an Interim Directive, Work that has been covered without a requirement that it be inspected before being covered shall be uncovered for Owner's inspection. Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by Owner or Others. If the uncovered Work proves to be defective, Constructor shall pay the costs of uncovering and replacement.



3.11.2 If any Work is covered contrary to requirements in the Contract Documents, Owner may issue an Interim Directive to uncover the Work for Owner's observation and recover the Work all at Constructor's expense and with Contract Time adjustment.

3.12 SAFETY

3.12.1 SAFETY PROGRAMS Constructor holds overall responsibility for safety. However, such obligation does not relieve Subcontractors of their safety responsibilities nor to comply with the Law. Constructor shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored onsite or offsite for use in the Work; and (c) property located at the Worksite and adjacent to work areas.

3.12.2 CONSTRUCTOR'S SAFETY REPRESENTATIVE Constructor shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Constructor in writing to Owner, Constructor's project superintendent shall serve as its safety representative. Constructor shall report promptly in writing to Owner all recordable accidents and injuries occurring at the Worksite. When Constructor is required to file an accident report with a public authority, Constructor shall furnish a copy of the report to Owner.

3.12.3 Constructor shall provide Owner with copies of all notices required of Constructor by Law. Constructor's safety program shall comply with the requirements of authorities having jurisdiction.

3.12.4 Damage or loss not insured under property insurance which may arise from the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, or anyone for whose acts Constructor may be liable, shall be promptly remedied by Constructor.

3.12.5 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Constructor's safety program, may require by Interim Directive, Constructor to stop performance of the Work, take corrective measures satisfactory to Owner, or both. If Constructor does not adopt corrective measures, Owner may perform them and reduce the amount of the GMP by the cost of the corrective measures. Constructor agrees to make no claim for damages, for an increase in the GMP or for a change in the Contract Time based on Constructor's compliance with Owner's reasonable request.

3.13 EMERGENCIES

3.13.1 In an emergency affecting the safety of persons or property, Constructor shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the GMP, estimated Cost of the Work, Constructor's Fee, or Contract Time resulting from the actions of Constructor in an emergency situation shall be determined as provided for in ARTICLE 9.

3.14 HAZARDOUS MATERIALS

3.14.1 Constructor shall not be obligated to commence Work until any Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate government agency.



3.14.2 If after commencing Work, Hazardous Material is discovered at the Worksite, Constructor shall be entitled to immediately stop Work in the affected area. Constructor shall report the condition to Owner, Design Professional, and, if required, the governmental agency with jurisdiction.

3.14.3 Constructor shall not resume nor be required to continue any Work affected by any Hazardous Material without written mutual agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.14.4 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.14.5 If Constructor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Constructor shall be entitled to an equitable adjustment in GMP or Contract Time in accordance with this Agreement.

3.14.6 To the extent permitted by §6.6 and to the extent not caused by the negligent or intentionally wrongful acts or omissions of Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall defend, indemnify, and hold harmless Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.14.7 MATERIALS BROUGHT TO THE WORKSITE

3.14.7.1 Safety Data Sheets (SDS) as required by Law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Constructor, Subcontractors, Owner, or Others, shall be maintained at the Worksite by Constructor and made available to Owner, Subcontractors, and Others.

3.14.7.2 Constructor shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor and used or consumed in the performance of the Work. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Constructor if such materials or substances are required by the Contract Documents.

3.14.7.3 To the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, its agents, officers, directors, and employees, Constructor shall defend, indemnify, and hold harmless Owner, its agents, officers, directors, and employees from and against claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor]

3.14.8 §3.14 in its entirety shall survive the completion of the Work or Agreement termination.



3.15 SUBMITTALS

3.15.1 Constructor shall submit to Owner and, to its Design Professional for review and Owner's approval all shop drawings, samples, product data, and similar submittals required by the Contract Documents. Submittals shall be submitted in electronic form if required by §4.6.1. Constructor shall be responsible to Owner for the accuracy and conformity of its submittals to the Contract Documents. Constructor shall prepare and deliver its submittals to Owner in such time and sequence so as not to delay the performance of the Work or the work of the Owner and Others. When Constructor delivers its submittals to Owner, Constructor shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Constructor submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless a Change Order or Interim Directive specifically authorizes such deviation, substitution, or change. To the extent a change, deviation, or substitution causes an impact to the Constructor's Fee, GMP, or Contract Time, such approval shall be memorialized in a Change Order no later than seven (7) Days following approval by Owner. Neither Design Professional nor Owner shall make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to Constructor. If the Contract Documents do not contain submittal requirements pertaining to the Work, Constructor agrees upon request to submit in a timely fashion to Design Professional and Owner for review any shop drawings, samples, product data, manufacturers' literature, or similar submittals as may reasonably be required by Owner.

3.15.2 Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.

3.15.3 Constructor shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform Changed Work, unless the procedures of ARTICLE 9 are followed. Approval does not relieve Constructor from responsibility for Defective Work resulting from errors or omissions on the approved shop drawings.

3.15.4 Record copies of the following, incorporating field changes and selections made during construction, shall be accessible at the Worksite and available to Owner upon request: drawings, specifications, addenda, Change Orders, and other modifications, and required submittals including product data, samples, and shop drawings.

3.15.5 Constructor shall prepare and submit to Owner:

- Final marked-up as-built drawings;
- Updated electronic data, in accordance with §4.6.1; or
- Other documentation required by the Contract Documents that specifies how various elements of the Work were actually constructed or installed.

3.16 WORKSITE CONDITIONS

3.16.1 WORKSITE VISIT Constructor acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.

3.16.2 CONCEALED OR UNKNOWN WORKSITE CONDITIONS If a condition encountered at the Worksite is (a) subsurface or other physical condition materially different from those indicated in the



Contract Documents, or (b) unusual and unknown physical condition materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, Constructor shall stop affected Work after the concealed or unknown condition is first observed and give prompt written notice of the condition to Owner and Design Professional. Owner shall investigate and then issue an Interim Directive specifying the extent to which Owner agrees that a concealed or unknown condition exists and directing how Constructor is to proceed. Constructor shall not be required to perform any Work relating to the condition without the written mutual agreement of the Parties. Any change in the Constructor's Fee, GMP, or Contract Time as a result of the condition, including any dispute about its existence or nature, shall be determined as provided in ARTICLE 9.

3.17 PERMITS AND TAXES

3.17.1 Constructor shall give public authorities all notices required by Law and, except for permits and fees that are the responsibility of Owner, shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Constructor shall provide to Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

3.18 CUTTING, FITTING, AND PATCHING

3.18.1 Constructor shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of Owner or Others.

3.18.2 Cutting, patching, or altering the work of Owner or Others shall be done with the prior written approval of Owner. Such approval shall not be unreasonably withheld.

3.19 CLEAN UP

3.19.1 Constructor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Constructor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Constructor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Constructor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

3.19.2 If Constructor fails to commence compliance with cleanup duties within two (2) Business Days after written notification from Owner of non-compliance, Owner may implement appropriate cleanup measures without further notice and shall deduct the reasonable costs from any amounts due or to become due to Constructor in the next payment period.

3.20 CONSTRUCTOR'S CONTINGENCY Constructor's Contingency is for Constructor's exclusive use to cover costs and expenses incurred by Constructor in its performance of the Work. Constructor's Contingency is not intended to be used for changes in scope or for any item that would be the basis for an increase in the GMP. Constructor shall provide Owner with a contemporaneous accounting of charges against Constructor's Contingency, if applicable, with each application for payment.

3.21 CONSTRUCTION SERVICES AND ADMINISTRATION



3.21.1 COST REPORTING Constructor shall maintain in conformance with generally accepted accounting principles a complete and current set of records that are prepared or used by Constructor to calculate the Cost of Work. Owner shall be afforded access to Constructor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to requested payment for Cost of the Work. Constructor shall preserve all such records for a period of three (3) years after the final payment or longer where required by Law.

3.21.2 Constructor agrees to use reasonable skill and judgment in the preparation of cost estimates and Schedule of the Work, but does not warrant or guarantee them, except to the extent of the GMP.

3.21.3 CONSTRUCTION PERSONNEL AND SUPERVISION

3.21.3.1 Constructor shall provide competent supervision for the performance of the Work. Before commencing the Work, Constructor shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager, so Owner may review the individual's qualifications. If, for reasonable cause, Owner refuses to approve the individual, or withdraws its approval after once giving it, Constructor shall name a different superintendent or project manager for Owner's review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

3.21.3.2 Constructor shall be responsible to Owner for acts or omissions of persons or entities supplying materials or equipment or performing portions of the Work for or on behalf of Constructor.

3.21.3.3 Constructor shall permit only qualified persons to perform the Work. Constructor shall enforce safety procedures, strict discipline, and good order among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned work, Constructor shall immediately reassign the person upon receipt of Owner's written notice to do so.

3.21.4 COOPERATION WITH WORK OF OWNER AND OTHERS

3.21.4.1 Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, clean up, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.21.4.2 If Owner elects to perform work at the Worksite directly or by Others, Constructor and Owner shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Constructor and assist with the coordination of activities and the review of construction schedules and operations. The GMP and Contract Time shall be equitably adjusted, as mutually agreed by the Parties, for changes made necessary by the coordination of construction activities, and the Schedule of the Work shall be revised accordingly. Constructor, Owner, and Others shall adhere to the revised construction schedule.

3.21.4.3 With regard to the work of Owner and Others, Constructor shall (a) proceed with the Work in a manner which does not hinder, delay, or interfere with the work of Owner or



Others or cause the work of Owner or Others to become defective; (b) afford Owner or Others reasonable access for introduction and storage of their materials and equipment and performance of their activities; and (c) cooperate with Owner's efforts to coordinate Constructor's Work with theirs.

3.21.4.4 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Constructor shall give Owner prompt written notification of any defects Constructor discovers in their work which will prevent the proper execution of the Work. Constructor's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Constructor does not notify Owner of patent defects interfering with the performance of the Work, Constructor acknowledges that the work of Owner or Others is not patently defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.21.5 MATERIALS, FIXTURES, OR EQUIPMENT FURNISHED BY OWNER OR OTHERS If the Work includes installation of materials, fixtures, or equipment furnished by Owner or Others and incorporated into the Work, it shall be the responsibility of Constructor to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Constructor shall be the responsibility of Constructor and may be deducted from any amounts due or to become due Constructor. Any defects discovered in such materials, fixtures, or equipment shall be reported at once to Owner. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.22 ACCESS TO WORK Constructor shall facilitate the access of Owner, Design Professional, and Others to Work in progress.

3.23 COMPLIANCE WITH THE LAW Constructor shall comply with the Law at its own cost. Constructor shall be liable to Owner for all loss, cost, or expense attributable to any acts or omissions by Constructor, its employees, subcontractors, suppliers, and agents for failure to comply with Law, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if prior approval by appropriate authorities and Owner is received.

3.23.1 Constructor's Fee, GMP, or Contract Time shall be equitably adjusted by Change Order for additional costs or time needed resulting from any change in Law, including increased taxes enacted after the date of this Agreement.

3.24 CONFIDENTIALITY Constructor shall treat as confidential and not disclose to third-persons, nor use for its own benefit ("Treat as Confidential"), any of Owner's confidential information, know-how, discoveries, production methods, and the like disclosed to Constructor or which Constructor may acquire in performing the Work. To the extent necessary to perform the Work, Constructor's confidentiality obligations do not apply to disclosures to Subcontractors, Subsubcontractors, and Suppliers. Owner shall Treat as Confidential information all of Constructor's estimating systems and historical and parameter cost data disclosed to Owner in performing the Work. Each Party shall specify and mark confidential items to as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.



3.25 Work Rules.

3.25.1 Contractor shall perform all work hereunder in keeping with the rules and regulations that the County may promulgate at any time for the safe, orderly and efficient conduct of all operations.

3.25.2 The County shall have the right to require of Contractor the immediate removal from the Project of any employee of Contractor or of his subcontractors who, in the discretion of the County, is not qualified to perform the work assigned to him, is guilty of improper conduct, or is not working in harmony with the other trades.

3.25.3 Nothing contained in this Agreement shall constitute Contractor as being an employee of the County, nor shall any employment relationship between the County and Contractor be created by the terms hereof.

3.25.4 Contractor is responsible for the safety of any of its materials, tools, possessions and rented items stored on the job site, and for protection of the Project, and shall hold the County and its authorized representatives harmless from any damage or loss incurred thereto.

3.25.5 Contractor shall promptly pay in full for any and all damage caused to the Project site by Contractor or by any subcontractor or other person or entity of any nature furnishing materials, equipment, machinery, supplies, labor, skilled services or instruments for whose actions Contractor is responsible hereunder.

3.25.6 No material, equipment, tools, supplies or instruments, other than those belonging to or leased by Contractor, will be removed from the Project site by Contractor without the prior written approval of the County.

3.25.7 Contractor agrees to report immediately to the County, in writing, any and all property damage and/or personal injury that occurs on the Project site during the course of Contractor's performance.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES Owner's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.

4.2 FINANCIAL INFORMATION Before commencing the Work and thereafter, at the written request of Constructor, Owner shall provide Constructor with evidence of Project financing. Evidence of such financing shall be a condition precedent to Constructor's commencing or continuing the Work. Constructor shall be notified before any material change in Project financing.

4.3 WORKSITE INFORMATION To the extent Owner has obtained, or is required in the Contract Documents to obtain, then Owner shall provide the following:

4.3.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface conditions and environmental studies, reports, and investigations;

4.3.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law;

4.3.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and

4.3.4 any other information or services requested in writing by Constructor which are required for Constructor's performance of the Work and under Owner's control.



4.4 BUILDING PERMIT, FEES, AND APPROVALS Except for those permits and fees related to the Work which are the responsibility of Constructor, Owner shall secure and pay for all other permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

4.5 CONTRACT DOCUMENTS

4.5.1 ELECTRONIC DOCUMENTS If Owner requires that Owner, Design Professional, and Constructor exchange documents and data in electronic or digital form, before any such exchange, Owner, Design Professional, and Constructor shall agree on and follow a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate addenda, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, each Party shall bear its own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

4.6 OWNER'S REPRESENTATIVE Owner's Representative is John Cattles. Owner's Representative shall be fully acquainted with the Project, and shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice. If Owner changes its Representative or its Representative's authority, Owner shall immediately notify Constructor in writing.

4.7 OWNER'S CUTTING AND PATCHING Cutting, patching, or altering the Work by Owner or Others shall be done with the prior written approval of Constructor, which approval shall not be unreasonably withheld.

4.8 OWNER'S RIGHT TO CLEAN UP In case of a dispute between Constructor and Others with regard to respective responsibilities for clean up at the Worksite, Owner may implement appropriate cleanup measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period.

4.9 COST OF CORRECTING DAMAGED OR DESTROYED WORK With regard to damage or loss attributable to the acts or omissions of Owner or Others and not to Constructor, Owner shall either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue an Interim Directive or Change Order to Remedy the damage or loss. If Constructor incurs costs or is delayed due to such loss or damage, Constructor may seek an equitable adjustment in GMP or Contract Time under this Agreement.

ARTICLE 5 SUBCONTRACTS

5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.1.1 Promptly after executing this Agreement, Constructor shall provide Owner, and if directed, Design Professional with a written list of the proposed Subcontractors and significant Suppliers. If



Owner has a reasonable objection to any proposed Subcontractor or Supplier, Owner shall notify Constructor in writing. Failure to promptly object shall constitute acceptance.

5.1.2 If Owner has reasonably and promptly objected, Constructor shall not contract with the proposed Subcontractor or Supplier, and Constructor shall propose another acceptable to Owner. An appropriate Change Order shall reflect any increase or decrease in GMP or Contract Time because of the substitution.

5.2 BINDING OF SUBCONTRACTORS AND SUPPLIERS Constructor agrees to bind every Subcontractor and Supplier (and require each Subcontractor to so bind its Subsubcontractors and significant suppliers) to the Contract Document's applicable provisions to that portion of the Work.

5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.3.1 If this Agreement is terminated, each subcontract and supply agreement shall be assigned by Constructor to Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by Owner pursuant to §12.3 or §12.4; and (b) Owner accepts such assignment after termination by notifying Constructor and Subcontractor or Constructor and Supplier in writing, and assumes all rights and obligations of Constructor pursuant to each subcontract or supply agreement.

5.3.2 If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.

ARTICLE 6 TIME

6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below: [_____]

6.1.1 SUBSTANTIAL/FINAL COMPLETION Substantial and Final Completion of the Work shall be determined once drawings are completed.

6.1.2 Time is of the essence with regard to the obligations of the Contract Documents.

6.1.3 Unless instructed by Owner in writing, Constructor shall not knowingly commence the Work before the effective date of Constructor's required insurance.

6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting its first application for payment, Constructor shall submit to Owner, and if directed, to Design Professional, a Schedule of the Work showing the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner. Except as otherwise directed by Owner, Constructor shall comply with the approved Schedule of the Work. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work. Constructor shall update the Schedule of the Work on a monthly basis or as mutually agreed by the Parties.



6.2.2 Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. Owner may require Constructor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by Owner or Others. If Constructor consequently incurs costs or is delayed, or both, Constructor may seek an equitable adjustment in Constructor's Fee, GMP Price, or Contract Time under ARTICLE 9.

6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Constructor, Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of Constructor include, but are not limited to, the following: (a) acts or omissions of Owner, Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §12.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Constructor; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. Constructor shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 9.

6.3.2 In addition, if Constructor incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, Constructor may be entitled to an equitable adjustment in Constructor's Fee or GMP pursuant to ARTICLE 9 and subject to §6.6.

6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, Constructor shall provide prompt written notice to Owner of the cause of such delays after Constructor first recognizes the delay. The Parties each agree to take reasonable steps to mitigate the effect of such delays.

6.4 NOTICE OF DELAY CLAIMS If Constructor requests an equitable extension of the Contract Time as a result of a delay described §6.3, Constructor shall give Owner written notice of the claim in accordance with §9.4. If Constructor causes delay in the completion of the Work, Owner shall be entitled to recover its additional costs subject to §6.6. Owner shall process any such claim against Constructor in accordance with ARTICLE 9.

6.5 LIQUIDATED DAMAGES

6.5.1 SUBSTANTIAL COMPLETION Liquidated damages based on Substantial Completion date
 shall/ shall not apply.

6.5.1.1 Owner will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Constructor shall pay Owner [_____] dollars (\$[_____]) as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date. These liquidated damages are in lieu of all liability for all extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining the Substantial Completion date.



6.5.2 FINAL COMPLETION Liquidated damages based on the Final Completion date shall/
shall not apply.

6.5.3 Owner will suffer damages which are difficult to determine and accurately specify. Constructor agrees that if the Final Completion date, as may be amended by subsequent Change Order, is not attained, Constructor shall pay Owner [_____] dollars (\$[____]) as liquidated damages and not as a penalty for each Day that Final Completion extends beyond the Final Completion date. These liquidated damages are in lieu of all liability for all extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining Final Completion date.

6.5.4 Other applicable liquidated damages shall be included as Agreement exhibit.

6.6 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in §6.5 and excluding losses covered by insurance required by the Contract Documents, Parties agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. Owner agrees to waive damages, including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. Constructor agrees to waive damages, including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination.

6.6.1 Parties shall each require similar waivers in contracts with Subcontractors and Others retained for the Project.

ARTICLE 7 COMPENSATION

7.1 Owner shall compensate Constructor for Work performed on the following basis:

7.1.1 Cost of the Work as allowed in ARTICLE 8; and

7.1.2 Constructor's Fee paid in proportion to Work performed subject to adjustment as provided in §7.4.

7.1.3 If at Final Completion, Cost of the Work plus Constructor's Fee is less than the GMP, the difference shall be shared as follows: The savings, if any, shall accrue eighty percent (80%) to Owner and twenty percent (20%) to Constructor. The shared savings shall be calculated and paid as part of final payment. Constructor shall not be entitled to any portion of the shared savings if either Party terminates this Agreement.

7.2 Payment for Work performed shall be as set forth in ARTICLE 10.

7.3 CONSTRUCTOR'S FEE Constructor's Fee shall be as follows, subject to adjustment as provided in §7.4:

10 % of the Cost of the Work, or;



\$_____, a lump sum amount.

7.4 ADJUSTMENT IN CONSTRUCTOR'S FEE Adjustment in Constructor's Fee shall be made as follows:

7.4.1 if Constructor performs changed work pursuant to ARTICLE 9 and if Constructor's Fee is a lump sum amount, §9.1.2 shall apply.

7.4.2 if Constructor performs changed work pursuant to ARTICLE 9 and if Constructor's Fee is a percentage of the Cost of the Work, Constructor's Fees shall be calculated as a percentage of the total Cost of the Work, including changed work pursuant to ARTICLE 9.

7.4.3 if Constructor is placed in charge of managing the replacement of an insured or uninsured loss, Constructor shall be paid an additional fee in the same proportion that Constructor's Fee bears to the estimated cost of the work for the replacement.

7.4.4 Pursuant to Article X, Section 20 of the Colorado Constitution and C.R.S. § 29-1-110, as amended, the financial obligations of the County as set forth in this Paragraph after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise available. This Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated. The County shall give the Contractor written notice of such non-appropriation, but the County's failure to do so shall not affect the termination of this agreement. Financial obligations of the County payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available, pursuant to the Constitution for annual funding appropriation.

ARTICLE 8 COST OF THE WORK

8.1 Owner agrees to pay Constructor for Cost of the Work as defined in this article. This payment shall be in addition to Constructor's Fee in §7.3. The Cost of the Work includes:

8.1.1 Labor wages directly employed by Constructor in the performing the Work.

8.1.2 Salaries of Constructor's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office as mutually agreed by the Parties in writing;

8.1.3 Cost of all employee benefits and taxes including but not limited to Workers' Compensation, unemployment compensation, Social Security, health, welfare, retirement, and other fringe benefits as required by Laws, labor agreements, or paid under Constructor's standard personnel policy, insofar as such costs are paid to employees of Constructor who are included in the Cost of the Work above;

8.1.4 Reasonable transportation, travel, hotel, and moving expenses of Constructor's personnel incurred in connection with Work;

8.1.5 Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage and handling;

8.1.6 Payments properly made by Constructor to Subcontractors for performed Work;



8.1.7 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed, that remain the property of Constructor;

8.1.8 Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at Worksite, whether rented from Constructor or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Constructor or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of Worksite up to eighty-five percent (85%) of the value of the piece of equipment;

8.1.9 Cost for the premiums for all insurance and surety bonds, which Constructor is required to procure, pay or deems necessary, and approved by Owner, including any additional premium incurred as a result of any increase in the Cost of the Work;

8.1.10 Sales, use, gross receipts or other taxes, tariffs, or duties related to Work for which Constructor is liable;

8.1.11 Permits, fees, licenses, tests, and royalties;

8.1.12 Costs associated with establishing, equipping, operating, maintaining, and demobilizing the field office;

8.1.13 Water, power, and fuel costs necessary for the Work;

8.1.14 Cost of removal of all nonhazardous substances, debris, and waste materials;

8.1.15 Costs incurred due to an emergency affecting the safety of persons or property;

8.1.16 Legal, mediation, and arbitration fees and costs, other than those arising from disputes between the Parties, reasonably and properly needed in Constructor's performance of Work; and

8.1.17 Costs directly incurred in performing the Work, or in connection with the Project, and not included in Constructor's Fee as set forth in ARTICLE 7, which are reasonably inferable from the Contract Documents.

8.1.18 DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Constructor, all cash discounts shall accrue to Constructor. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to Cost of the Work.

8.1.19 FINANCIAL RECORDS Constructor shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management with respect to the Project. Owner shall be afforded access to all of Constructor's records, books, correspondence, instructions, drawing, receipts, vouchers, memoranda, and similar data relating to this Agreement. Constructor shall preserve all such records for a period of three years after the final payment or longer where required by Law. Constructor agrees to use



reasonable skill and judgment in the preparation of cost estimates, but does not warrant or guarantee them.

ARTICLE 9 CHANGES

Changes in the Work which are within the general scope of this Agreement may be accomplished, without invalidating this Agreement, by Change Order and Interim Directive.

9.1 CHANGE ORDER

9.1.1 Constructor may request or Owner may order changes in Work or the timing or sequencing of Work that impact the GMP, Constructor's Fee, or Contract Time. All such changes in Work that affect GMP, Constructor's Fee, or Contract Time shall be formalized in a Change Order, and processed in accordance with this article.

9.1.2 Each adjustment in GMP resulting from a Change Order shall clearly separate the amount attributable to Cost of the Work and Constructor's Fee, with Constructor's Fee not to exceed ten percent (10 %) of Cost of the Work.

9.1.3 For changes in the Work, the Parties shall negotiate an appropriate adjustment to GMP, Constructor's Fee, or the Contract Time in good faith and conclude negotiations as expeditiously as possible. Acceptance of Change Orders and any adjustment in GMP, Constructor's Fee, or Contract Time shall not be unreasonably withheld.

9.1.4 NO OBLIGATION TO PERFORM Constructor shall not be obligated to perform changes in Work without a Change Order

9.2 DETERMINATION OF COST

9.2.1 An increase or decrease in GMP resulting from a change in the Work shall be determined pursuant to §9.1.3 and Constructor's Fee shall be determined pursuant to §7.4; or

9.3 INCIDENTAL CHANGES Owner may direct Constructor to perform incidental changes in the Work upon concurrence with Constructor that such changes do not involve adjustments in the Cost of the Work or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing an Interim Directive.

ARTICLE 10 PAYMENT

10.1 SCHEDULE OF VALUES Within twenty-one (21) Days from the date of execution of this Agreement, Constructor shall prepare and submit to Owner a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a value such that the total of all items shall equal the Contract Price.

10.2 PROGRESS PAYMENTS

10.2.1 APPLICATIONS Constructor shall submit to Owner and, if directed, Design Professional a monthly application for payment no later than the 25th day of the calendar month for the preceding calendar month. Constructor's applications for payment shall consist of the Cost of the Work performed up to the 25th day of the month, along with a proportionate share of Constructor's Fee.



Constructor shall include an estimate of the additional costs necessary to complete the Work. Applications for payment may include materials and equipment not yet incorporated into the Work, but delivered to and suitably stored onsite or offsite, including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for such stored materials stored off-site shall be conditioned upon submission by Constructor of bills of sale and applicable insurance or such other procedures satisfactory to Owner to establish Owner's title to such materials, or otherwise to protect Owner's interest, including transportation to the Worksite. Before submitting the next application for payment, Constructor shall furnish to Owner a statement accounting for the disbursement of funds received under the previous application. The extent of such statement shall be as agreed upon between the Parties.

10.2.2 STORED MATERIALS AND EQUIPMENT Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Constructor of bills of sale and proof of required insurance, or such other documentation satisfactory to Owner to establish the proper valuation of the stored materials and equipment, Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the Worksite

10.2.3 LIEN WAIVERS AND LIENS

10.2.3.1 PARTIAL LIEN WAIVERS AND AFFIDAVITS If required by Owner, as a prerequisite for payment, Constructor shall provide a partial lien and claim waiver in the amount of the application for payment and affidavits from its Subcontractors and Suppliers for the completed Work. Such waivers shall be conditional upon payment. Constructor shall not be required to sign an unconditional waiver of lien or claim, before receiving payment or in an amount in excess of what it has been paid.

10.2.3.2 REMOVING LIENS If Owner has made payments in the time required by this ARTICLE 10, Constructor shall, within thirty (30) Days after filing, remove any liens filed against the premises or public improvement fund by any party or parties performing labor or services or supplying materials in connection with the Work. If Constructor fails to take such action on a lien, Owner may cause the lien to be removed at Constructor's expense, including bond costs and reasonable attorneys' fees. This subsection shall not apply if there is a dispute pursuant to ARTICLE 13 relating to the subject matter of the lien.

10.2.4 RETAINAGE From each progress payment made before Substantial Completion, Owner may retain Five percent (5%) of the amount otherwise due after deduction of any amounts as provided in §10.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

10.2.4.1 after the Work is fifty percent (50%) complete, Owner shall withhold no additional retainage and shall pay Constructor the full amount due on account of subsequent progress payments;

10.2.4.2 Owner may, in its sole discretion, reduce the amount to be retained at any time;

10.2.4.3 Owner may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which Owner has accepted. In lieu of retainage,



Constructor may furnish a retention bond or other security interest acceptable to Owner, to be held by Owner.

10.3 ADJUSTMENT OF CONSTRUCTOR'S PAYMENT APPLICATION Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Constructor is responsible under this Agreement:

10.3.1 Constructor's repeated failure to perform the Work as required by the Contract Documents;

10.3.2 Except as accepted by the insurer providing Builder's Risk or other property insurance covering the Project, loss or damage arising out of or relating to this Agreement and caused by Constructor to Owner or others to whom Owner may be liable;

10.3.3 Constructor's failure to properly pay either Subcontractors or Suppliers following receipt of payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Constructor in accordance with this Agreement;

10.3.4 rejected Defective Work not corrected in a timely fashion;

10.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed within the Contract Time;

10.3.6 reasonable evidence demonstrating that the unpaid balance of the GMP is insufficient to fund the cost to complete the Work; and

10.3.7 uninsured third-party claims involving Constructor, or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Constructor furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, Owner shall give written notice to Constructor, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Constructor in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

10.4 ACCEPTANCE OF WORK Neither Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work not complying with the Contract Documents.

10.5 PAYMENT DELAY If for any reason not the fault of Constructor, Constructor does not receive a progress payment from Owner within seven (7) Days after the time such payment is due, then Constructor, upon giving seven (7) Days written notice to Owner, and without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to Constructor has been received, including interest for late payment. If Constructor incurs costs or is delayed resulting from shutdown, delay, and start-up, Constructor may seek an equitable adjustment in GMP, Constructor's Fee or Contract Time under ARTICLE 9.

10.6 SUBSTANTIAL COMPLETION



10.6.1 Constructor shall notify Owner and, if directed, Design Professional when it considers that Substantial Completion of the Work or a designated portion to have been achieved. Owner, with the assistance of Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by Owner without excessive interference in completing any remaining unfinished Work. If Owner determines that the Work or designated portion has not reached Substantial Completion, Owner shall promptly compile a list of items to be completed or corrected so Owner may occupy or use the Work or designated portion for its intended use. Constructor shall promptly complete all items on the list.

10.6.2 When Substantial Completion of the Work or a designated portion is achieved, Constructor shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work. In the absence of a clear delineation of responsibilities, Owner shall assume all responsibilities for items such as security, maintenance, utilities, insurance, and damage to the Work. The Certificate of Substantial Completion shall also list any items to be completed or corrected, and establish the time for their completion or correction. The Certificate of Substantial Completion shall be submitted by Constructor to Owner, and, if directed, to Design Professional, for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.

10.6.3 Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.

10.6.4 Upon Owner's written acceptance of the Certificate of Substantial Completion, Owner shall pay to Constructor the remaining retainage held by Owner for the Work described in the Certificate of Substantial Completion, less a sum equal to one hundred fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion. Uncompleted items shall be completed by Constructor in a mutually agreed upon timeframe. Owner shall pay Constructor monthly the amount retained for unfinished items as each item is completed.

10.7 PARTIAL OCCUPANCY OR USE

10.7.1 Owner may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work.

10.8 FINAL COMPLETION AND FINAL PAYMENT

10.8.1 Upon notification from Constructor that the Work is complete and ready for final inspection and acceptance, Owner, with the assistance of Design Professional, shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

10.8.2 When Final Completion has been achieved, Constructor shall prepare for Owner's written acceptance a final application for payment stating that to the best of Constructor's knowledge, and based on Owner's inspections, the Work has reached Final Completion in accordance with the Contract Documents.



10.8.3 Final payment of the balance of the Cost of the Work shall be made to Constructor within twenty (20) Days after Constructor has submitted a complete and accurate application for final payment, including submissions required under §10.8.4, and a Certificate of Final Completion has been executed by the Parties.

10.8.4 Final payment is due upon Constructor's submission to Owner of the following:

10.8.4.1 An affidavit declaring any indebtedness connected with the Work to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber Owner's property;

10.8.4.2 As-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;

10.8.4.3 Release of any liens, conditioned on final payment being received;

10.8.4.4 Consent of any surety; and

10.8.4.5 Any outstanding known and unreported accidents or injuries experienced by Constructor or its Subcontractors at the Worksite.

10.8.5 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Constructor, Owner shall pay the balance due for any portion of the Work fully completed and accepted. If the estimated Cost of the Work for Work not fully completed and accepted is less than the retained amount before payment, Constructor shall submit to Owner, and if directed, to Design Professional, the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by §10.8.6 and §10.8.7.

10.8.6 OWNER'S CLAIMS RESERVATION Owner's claims not reserved in writing with final payment are waived except for claims relating to liens or similar encumbrances, warranties, Defective Work.

10.8.7 CONSTRUCTOR ACCEPTANCE OF FINAL PAYMENT Unless Constructor provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

10.9 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the rate made applicable by Law.

ARTICLE 11 INDEMNITY, INSURANCE AND BONDS

11.1 INDEMNITY

Contractor irrevocably and unconditionally agrees to indemnify, defend and hold harmless Gunnison County, its Commissioners, agents and employees of and from any and all liability, claims, liens, demands, actions and causes of action whatsoever (including reasonable attorney's and expert's fees and costs) arising out of or related to any loss, cost, damage or injury, including death, of any person or damage to property of any kind caused by the acts, failure to act, errors or omissions of Contractor or its employees,



subcontractors or agents in connection with this Agreement. Further, the County shall not be liable to Contractor or its affiliates for any loss of anticipated business opportunities, contracts, revenues, profits or savings; damage to goodwill or reputation; or indirect, special or consequential loss or damage, arising out of or in connection with this Agreement, whether for breach of contract, in tort (including negligence), under statute or any other law, and Contractor expressly disclaims any such claims or damages as against the County.

In case of any claim that is subject to indemnification under this Agreement, Contractor will provide the County reasonably prompt notice of the claim. Contractor will defend or settle, at its own expense, any demand, action, or suit on any claim subject to indemnification under this Agreement, through legal counsel selected by Contractor but approved by the County. Each party will cooperate in good faith with the other to facilitate the defense of any such claim and the County will tender the defense and settlement of any action or proceeding covered by this Section to Contractor or upon request. Claims may be settled without the consent of the County, unless the settlement includes an admission of wrongdoing, fault or liability by the County, whether express or implied.

Any term included in this Agreement that requires the County to indemnify or hold Contractor harmless; requires the County 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 Agreement shall be construed as a waiver of any provision of C.R.S. § 24-106-109.

This defense and indemnification obligation shall survive any termination or expiration of this Agreement.

11.1.1 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Constructor, anyone directly or indirectly employed by Constructor, or anyone for whose acts Constructor may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Constructor under workers' compensation acts, disability benefit acts, or other employment benefit acts.

11.2 INSURANCE

The Contractor agrees to procure and maintain, during the life of this Contract, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Contractor, pursuant to Section 1 of Exhibit A. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands



or other obligations assumed, pursuant to Section 1 of Exhibit A, by reason of its failure to procure and maintain, during the life of this Contract, insurance in sufficient amounts, durations or types.

The Contractor shall procure and maintain, during the life of this Contract, for itself and any subcontractor, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the County. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor, pursuant to this Agreement. In the case of a claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- a. Workers' Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Contractor during Term of this Agreement. Evidence of qualified self-insured status may be substituted for the workers' compensation requirements of this Paragraph.
- b. Commercial General Liability Insurance to be written with a limit of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, personal injury (including coverage for employee and contractual acts), including death, at any time resulting therefrom, arising out of any one occurrence, and not less than Two Million Dollars (\$2,000,000) general aggregate for all damages arising out of bodily injury, including death, at any time resulting therefrom, during the policy period. This policy shall also include coverage for blanket contractual and independent contractor risks.

The limits of Commercial General Liability Insurance for broad-form property damage (including products and completed operations) shall be not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one occurrence, and not less than Two Million Dollars (\$2,000,000) for all damages arising out of injury to or destruction of property, including the County's property during the policy period.

The Commercial General Liability Insurance policy shall include coverage for explosion, collapse and underground hazards. The policy shall contain a severability of interests provision.

- c. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) each occurrence, and Two Million Dollars (\$2,000,000) aggregate with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

The policy required by Paragraph b. above shall be endorsed to include the County, whether private or governmental, its officers and employees, and the Engineer and its agents and employees, and any



other person(s), company(ies) or entity(ies) deemed necessary by the County as additional insureds. The Contractor shall be solely responsible for any deductible losses under any policy required herein.

Every policy required above shall be primary insurance, with the exception of Workers' Compensation, and any insurance carried by the County, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by the Contractor. No additional insured endorsement to the policy required by Paragraph b. above shall contain any exclusion for bodily injury or property damage arising from completed operations.

The certificate of insurance provided by the Contractor shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect and shall be reviewed and approved by the County prior to commencement of the Contract. No other form of certificate shall be used. The certificate shall identify this Contract and the coverages afforded under the policies. The completed certificate of insurance shall be on file with the County two (2) weeks prior to the date of the Contract and shall be sent to:

Gunnison County Attorney's Office
200 E. Virginia Ave
Gunnison, CO 81230

It is the affirmative obligation of the Contractor to notify the County, as provided in this Contract, a copy of the notice, within two (2) business days of the cancellation or substantive change to any insurance policy required under this Contract, and failure to do so shall constitute a breach of this Contract.

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

The County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

The parties hereto understand and agree that the County, its officers and employees, are relying on and do not waive or intend to waive by any provision of this Agreement the monetary limitations (presently Four Hundred Twenty-Four Thousand Dollars (\$424,000) for any injury to one person in any single occurrence, and One Million One Hundred Ninety-Five Thousand Dollars (\$1,195,000) for any injury to two or more persons in any single occurrence; except that, in such instance, no person may recover in



excess of Four Hundred Twenty-Four Thousand Dollars (\$424,000)), which amounts shall be adjusted by an amount reflecting the percentage change over a four-year period in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder-Greeley, All Items, All Urban Consumers, or its successor index, or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or otherwise available to the County, its officers or employees.

11.3 PERFORMANCE AND PAYMENT BOND.

Contractor shall provide to the County, prior to commencement of performance, a Performance and Payment Bond acceptable to the County in the full amount of _____ Dollars (\$ _____), including provisions for any adjustment thereof in accordance with the terms of this Agreement. Contractor shall obtain such bond on the County's behalf, separate and apart from any similar bonds or surety or warranty agreements entered into independently between the County and any manufacturer or supplier.

Should an Extension(s) or Amendment(s) be completed on this Agreement that increases the amount of the compensation, the Contractor shall request additional bonding capabilities from their Bonding Agent to reflect the amended contract amount as required by C.R.S. § 38-26-106 and the Contractor shall be responsible for paying any fees associated with the increase in the bonding amount. The County shall not be responsible for nor pay for any bonding fee increases.

11.4. Government Immunity

Liability for claims for injuries to persons or property arising from the negligence of the County, 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 Agreement 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.

11.5 OWNER NOTICE

To the extent commercially available to Constructor from its current insurance company, insurance policies required under §11.2 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) thirty (30) Days before coverage is nonrenewed by the insurance company and (b) within ten (10) Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Constructor shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance



policy required under §11.2 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Constructor shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

11.6 PROPERTY INSURANCE

11.6.1 Unless otherwise directed in writing by Owner, before starting the Work, Constructor shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Constructor, Subcontractors, Subsubcontractors, Suppliers, and Design Professional as insureds; (b) be written in such form as to cover all risks of physical loss except those specifically excluded by the policy. In addition, this insurance shall insure at least against and not exclude:

Comment [JC2]: County has builders risk insurance covered

11.6.1.1 the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Constructor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse however caused;

11.6.1.2 damage resulting from defective design, workmanship, or material;

11.6.1.3 coverage extension for damage to existing buildings, plan, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant, or structure. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Projects;

11.6.1.4 equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

11.6.1.5 testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

11.6.1.6 physical loss resulting from Terrorism.

11.6.2 The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §11.3.1 shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Constructor has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Constructor shall provide a copy of the property policy or policies obtained in compliance with this §11.3.

11.6.3 If Owner elects to purchase the property insurance required by this Agreement, including all of the same coverages and deductibles for the same duration specified in this §11.3, then Owner shall give written notice to Constructor and Design Professional before the Work is commenced, and provide a copy of the property policy or policies obtained in compliance with this §11.3. Owner may then provide insurance to protect its interests and the interests of Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by



Owner in a Change Order. If Owner gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, Owner shall be responsible for costs reasonably attributed to such failure.

- 11.6.4 The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, subsubcontractors and Design Professional for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
- 11.6.5 To the extent of the limits of Constructor's CGL specified in §11.2 or [] dollars (\$[]), whichever is more, Constructor shall indemnify and hold harmless Owner against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, Subcontractor, Supplier, Subsubcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.
- 11.7 ROYALTIES, PATENTS AND COPYRIGHTS Constructor shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Constructor and incorporated in the Work. Constructor shall defend, indemnify, and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to defend, indemnify, and hold Constructor harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner or Design Professional.
- 11.8 ~~BONDS~~ Performance and Payment Bonds are [] are not [] required of Constructor. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without reasonable cause. The penal sum of the bonds shall each be one hundred percent (100%) of the original GMP. Constructor shall endeavor to keep its surety advised of changes potentially impacting the Contract Time and GMP, though Constructor shall require that its surety waives any requirement to be notified of any alteration or extension of time.

Comment [JC3]: County is required to bond 50% at least. It's probably just a marginal cost difference to 100% so we'll stick with that unless significant savings can be achieved with a lower bond

12 SUSPENSION, NOTICE TO CURE, AND TERMINATION OF AGREEMENT

12.1 SUSPENSION BY OWNER FOR CONVENIENCE

- 12.1.1 OWNER SUSPENSION Should Owner order Constructor in writing to suspend, delay, or interrupt the performance of the Work for the convenience of Owner and not due to any act or omission of Constructor or any person or entity for whose acts or omissions Constructor may be liable, then Constructor shall immediately suspend, delay, or interrupt that portion of the Work for the time period ordered by Owner.
- 12.1.2 Any action taken by Owner that is permitted by any other provision of the Contract Documents and that results in a suspension of part or all of the Work does not constitute a suspension of Work under this section.



- 12.2 NOTICE TO CURE A DEFAULT If Constructor persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work, or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards a Law or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Constructor may be deemed in default.
- 12.2.1 After receiving Owner's written notice, if Constructor fails within seven (7) Days after receipt of written notice from Owner to commence and continue satisfactory correction of such default with diligence and promptness, then Owner shall give Constructor a second notice to correct the default within three (3) Business Days after receipt. The second notice to Constructor, and if applicable, the surety, may include, that Owner intends to terminate this Agreement for default absent appropriate corrective action.
- 12.2.2 If Constructor fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing reasonable means; (c) withhold payment due to Constructor; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the default, and charge Constructor the costs and expenses, including reasonable Overhead, profit, and attorneys' fees.
- 12.2.3 In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of such default without first giving written notice to Constructor, but shall give Constructor prompt written notice.
- 12.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT
- 12.3.1 TERMINATION BY OWNER FOR DEFAULT Upon expiration of the second notice period to cure pursuant to §12.2 and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §12.2. If Owner's costs arising out of Constructor's failure to cure, including the costs of completing the Work and reasonable attorneys' fees, exceed the unpaid GMP, Constructor shall be liable to Owner for such excess costs. If Owner's costs are less than the unpaid GMP, Owner shall pay the difference to Constructor. If Owner exercises its rights under this section, upon the request of Constructor, Owner shall furnish to Constructor a detailed accounting of the costs incurred by Owner.
- 12.3.2 USE OF CONSTRUCTOR'S MATERIALS, SUPPLIES, AND EQUIPMENT If Owner or Others perform work under §12.2, Owner shall have the right to take and use any materials and supplies for which Owner has paid and located at the Worksite for the purpose of completing any remaining Work. Owner and others performing work under this §12.3 shall also have the right to use construction tools and equipment located on the Worksite and belonging to the Constructor or Subsubcontractors for the purpose of completing the remaining Work, but only after Constructor's written consent. If Owner uses Constructor's construction tools and equipment in accordance with this subsection, then Owner shall indemnify and hold harmless Constructor and applicable Subcontractors and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with Owner's use of Constructor's or applicable subcontractor's construction tools and equipment. Immediately upon completion of the Work, any remaining materials, supplies, or equipment not consumed or incorporated in the Work shall be returned to Constructor in substantially the same condition as when they were taken, reasonable wear and tear excepted.



- 12.3.3 If Constructor files a petition under the Bankruptcy Code, this Agreement shall terminate if (a) Constructor or Constructor's trustee rejects the Agreement; (b) a default occurred and Constructor is unable to give adequate assurance of required performance; or (c) Constructor is otherwise unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.
- 12.3.4 Owner shall make reasonable efforts to mitigate damages arising from Constructor's default, and shall promptly invoice Constructor for all amounts due pursuant to §12.2 and §12.3.
- 12.4 TERMINATION BY OWNER FOR CONVENIENCE
- 12.4.1 Upon Constructor's receipt of Owner's written notice from Owner, Owner may, without cause, terminate this Agreement. Constructor shall immediately stop the Work, follow Owner's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.
- 12.4.2 If Owner terminates this Agreement for convenience, Constructor shall be paid: (a) for the Work performed to date including Overhead and profit to date allocatable to the Project; (b) for all demobilization costs and costs incurred resulting from termination, but not including Overhead or profit on Work not performed; (c) reasonable attorneys' fees and costs related to termination; and (d) a premium as follows: [_____].
- 12.4.3 If Owner terminates this Agreement, Constructor shall:
- 12.4.3.1 execute and deliver to Owner all papers and take all action required to assign, transfer, and vest in Owner the rights of Constructor to all materials, supplies, and equipment for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders, and commitments which have been made in accordance with the Contract Documents;
- 12.4.3.2 exert reasonable effort to reduce to a minimum Owner's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination;
- 12.4.3.3 cancel any subcontracts, orders, and commitments as Owner directs; and
- 12.4.3.4 sell at prices approved by Owner any materials, supplies, and equipment as Owner directs, with all proceeds paid or credited to Owner.
- 12.5 CONSTRUCTOR'S RIGHT TO TERMINATE
- 12.5.1 Seven (7) Days after Owner's receipt of written notice from Constructor, Constructor may terminate this Agreement if the Work has been stopped for a thirty (30) Day period through no fault of Constructor for any of the following reasons:
- (a) under court order or order of other governmental authorities having jurisdiction;
 - (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Constructor, materials are not available; or
 - (c) suspension by Owner for convenience pursuant to §12.1.



- 12.5.2 In addition, upon seven (7) Days written notice to Owner, and an opportunity to cure within three (3) Days, Constructor may terminate the Agreement if Owner:
- 12.5.2.1 fails to furnish reasonable evidence pursuant to §4.2 that sufficient funds are available and committed for Project financing; or
 - 12.5.2.2 assigns this Agreement over Constructor's reasonable objection; or
 - 12.5.2.3 fails to pay Constructor in accordance with this Agreement and Constructor stopped Work in compliance with §10.5; or
 - 12.5.2.4 otherwise materially breaches this Agreement.
- 12.5.3 Upon termination by Constructor in accordance with this §12.5, Constructor is entitled to recover from Owner payment for all Work executed and for any proven loss, cost, or expense in connection with the Work incurred, including all demobilization costs.
- 12.6 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination, the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

13 DISPUTE MITIGATION AND RESOLUTION

- 13.1 WORK CONTINUANCE AND PAYMENT Constructor shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution procedure. If Constructor continues to perform, Owner shall continue to make payments in accordance with this Agreement.
- 13.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected below.

13.2.1 LITIGATION

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Jurisdiction and venue for any legal proceedings related to this Agreement shall exclusively lie in the State of Colorado District Court located in Gunnison County, Colorado.

- 13.3 LIEN RIGHTS Nothing in this article shall limit any rights or remedies not expressly waived by the Constructor.

14 MISCELLANEOUS



- 14.1 **EXTENT OF AGREEMENT** Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.
- 14.2 **ASSIGNMENT** Except as to the assignment of proceeds, the Parties shall not assign their interest in this Agreement without the written consent of the other. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Constructor or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Constructor than this Agreement. If such assignment occurs, Constructor shall execute any consent reasonably required. In such event, the wholly owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.
- 14.3 **GOVERNING LAW** The Law in effect at the location of the Project shall govern this Agreement.
- 14.4 **SEVERABILITY** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.
- 14.5 **NOTICE** Unless changed in writing, a Party's address indicated in ARTICLE 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service
- 14.6 **NO WAIVER OF PERFORMANCE** Either Party's failure to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance or any other term, covenant, condition, or right.
- 14.7 **TITLES** The titles given to the articles are for ease of reference only and shall not be relied upon or cited for any other purpose.
- 14.8 **JOINT DRAFTING** The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

15 CONTRACT DOCUMENTS

15.1 EXISTING CONTRACT DOCUMENTS

15.1.1 The Contract Documents in existence at the time of execution of this Agreement are as follows:

- (a) Drawings: N/A
- (b) Specifications: N/A
- (c) Addenda: N/A
- (d) Owner Provided information: N/A



- (e) GMP written statement
- (f) Other: N/A

15.2 INTERPRETATION OF CONTRACT DOCUMENTS

- 15.2.1 The drawings and specifications are complementary. If Work is shown only on one but not on the other, Constructor shall perform the Work as though fully described on both.
- 15.2.2 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Constructor shall immediately submit the matter to Owner for clarification. Subject to an equitable adjustment in Contract Time or GMP pursuant to ARTICLE 9, or a dispute mitigation and resolution, Owner's clarifications are final and binding.
- 15.2.3 Where figures are given, they shall be preferred to scaled dimensions.
- 15.2.4 Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

15.3 ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement; (b) this Agreement; (c) subject to §15.2.2 the drawings (large scale governing over small scale), specifications, and addenda issued and acknowledged before Agreement execution or signed by both Parties; (d) information furnished by Owner pursuant to §3.14.4 or designated as a Contract Document in §15.1; (e) other Contract Documents listed in this Agreement. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control.

15.4 PUBLIC RECORD To the extent not prohibited by state or federal law, this Agreement is potentially subject to public release through the Colorado Open Records Act. The parties further acknowledge and understand that all work product or materials provided or produced under this Agreement, including items marked Proprietary or Confidential, may be subject to the Colorado Open Records Act., C.R.S. § 24-72-201 et seq.

15.5 ENTIRETY This Agreement constitutes the entire agreement between the parties concerning the subject matter herein, and all prior negotiations, representations, contracts, understandings or agreements pertaining to such matters are merged into and are superseded by this Agreement.

OWNER: Gunnison County

BY: _____ NAME: _____ TITLE: _____

WITNESS: _____ NAME: _____ TITLE: _____

CONSTRUCTOR: Adena Corporation



BY: _____ NAME: _____ TITLE: _____

WITNESS: _____ NAME: _____ TITLE: _____

END OF DOCUMENT.





Building form...crafting function

1310 W. Fourth Street • Mansfield, OH 44906 • P: 419-529-4456 • F: 419-529-4288 • www.adenacorporation.com

To: Gunnison County
Attn: John Cattles
Re: Renovation of the Gunnison County Division 3 Shop (crested butte)

June 13, 2023

Mr. Cattles,

Please accept our proposal regarding the improvements to your facility located at 26601 Hwy 135 Crested Butte, CO 81224

Per our discussion and site investigation, we have developed the following scope.

Scope of Work:

- **Pre-Construction Phase**

- Coordination with the Design Team and Engineers: Adena will work closely with the design team and engineers to ensure constructability of the proposed design and provide valuable input during the design stage.
- Preliminary Project Schedule: Gantt chart Schedule using our P6 software to include Pre-construction and Phased construction.
- Phased Construction: Recommendations with regard to accelerated or fast-track scheduling, procurement and sequencing for phased construction. It's our understanding that the project will consist of the following Phases.
 - Pre-construction – 2-month duration
 - Construction Phase #1 – Building envelope improvements consisting of new siding, roof, insulation, openings, Etc.
 - Construction Phase #2 – Geothermal and Solar system
- Preliminary Cost Estimate: Our team will conduct one round of comprehensive budget estimating to develop an initial Guaranteed Maximum Price (IGMP) prior to the completion of the design. This will include budget pricing for any self-performed work that Adena anticipates performing.
- GMP Proposal: Once the design is complete, we will conduct a final round of bidding to finalize the GMP amount. This Proposal will consist of a list of allowances, assumptions & clarifications, self-perform items and construction contingency.

- **Construction Phase:**

- Construction Management: Our team will oversee all construction activities, including procurement, subcontractor management, scheduling, and quality control. We will ensure that all work is executed in accordance with the project plans, specifications, and applicable codes and regulations.
- Project Coordination: We will maintain open lines of communication with Gunnison County, design team, engineers, and subcontractors to foster a collaborative environment that promotes transparency and minimizes any potential issues or delays.

- Cost Control: With the use of our management software “Vista” & “Viewpoint TEAM” we will manage costs to ensure adherence to the established Guaranteed Maximum Price (GMP). Our team will provide regular progress reports, including detailed cost breakdowns and forecasts, to keep you informed.
- Quality Assurance: Our site Supervisor – Kane Schonauer along with our management staff shall ensure all work is completed with high quality, while supervising the site.
- Project Closeout: Upon completion of the renovation, we will handle all necessary project closeout activities, including final inspections, coordination of subcontractor closeouts, and documentation for owner turnover.

Fee Structure:

Pre-construction Phase

General Conditions	\$21,232.00
Fee 10%	\$2,123.00
Total	\$23,355.00

Construction Phase 1&2 **Cost of work + 10% Fee.**

Clarifications/Assumptions:

- This proposal is based on the Consensus Docs #230 Standard Form of Agreement Between Owner and Construction Manager as Constructor, utilizing the basis of payment as the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
- The attached project staffing plan reflects the Scope of work as defined above.
- Adena is OSHA complaint.

We appreciate this opportunity!

Please reach out with any questions you may have. My cell Phone # 419-908-8232

Adena Corporation

Josh Darling
Sr. Vice President



GENERAL CONDITIONS COST MATRIX

Scope Description	Pre-construction General Conditions	Construction Phase General Conditions Unit Cost	Cost of Work Items Included in Construction Trades	Owner Items	Construction Phase General Conditions Total Cost
Design Related Services					
Design Services Fees				X	
Document Reproduction Costs		X			
Building Permits				X	
Municipality Fees (Water Tap Fees, Sanitary Tap Fees, Fire Tap Fees, Sewer Fees)			X		
Staffing Related Services (Reference Project Staffing Matrix)					
VP/Senior PM "oversite"	\$ 2,240.00	\$ 7,840.00			\$ 7,840.00
Project Manager	\$ 7,552.00	\$ 37,760.00			\$ 37,760.00
Superintendent "50% working"	\$ 1,568.00	\$ 58,800.00			\$ 58,800.00
Scheduler	\$ 672.00	\$ -			\$ -
Superintendent Housing (\$2,800/mnth)	\$ 5,600.00	\$ 19,600.00			\$ 19,600.00
PM/VP Travel (per trip) \$1,800 - pre-con qty #2	\$ 3,600.00	X			
Project Services					
Engineering and Layout		X			
3rd Party Inspection Fees				X	
Project Field Offices					
Enclosed Trailer		X			
Miscellaneous Items					
Sales & Use Taxes (project is tax-exempt)					
Tools, Equipment, Rentals					
Rough Hardware & Small Tools			X		
Equipment		X			
Project Requirements					
Temporary Toilet Facilities (if required)		X			
Temporary Site Fences and Gates (if required)		X			
Temporary Project Signage (if required)		X			
Temporary Heat for Building (if required)		X			
Temporary Electric for Building (if required)		X			
Temporary Water for Building (if required)		X			
Progressive Cleaning		X			
Final Cleaning				X	
Dumpster & Waste Removal		X			
Bonds & Insurances					
Adena Payment & Performance Bonds (if required)		X			
Subcontractor Payment & Performance Bonds (if required)		X			
Builder's Risk Insurance (if required)		X			
General Liability & Umbrella Insurances		X			
Professional Liability Insurance		X			
Other Insurance required by Contract Documents		X			
GENERAL CONDITIONS TOTALS	\$ 21,232.00				\$ 124,000.00



PROJECT STAFFING PLAN

Title	Billing Rate	2023						2024						Precon Hours	Precon Staff Costs	Construction Hours	Construction Staff Costs	Total Hours	Total Staff Costs
		July	August	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June						
		Pre-construction		Phase #1						Phase #2									
VP/Senior PM "Oversite"	\$ 140.00	8	8	8	8	8	8	0	0	0	8	8	8	16	\$2,240.00	56	\$7,840.00	72	\$10,080.00
Project Manager	\$ 118.00	32	32	32	32	32	32	32	32	32	32	32	32	64	\$7,552.00	320	\$37,760.00	384	\$45,312.00
Superintendent "50% working"	\$ 98.00	8	8	80	80	80	80	0	0	40	80	80	80	16	\$1,568.00	600	\$58,800.00	616	\$60,368.00
Scheduler	\$ 84.00	0	8	0	0	0	0	0	0	0	0	0	0	8	\$672.00	0	\$0.00	8	\$672.00
														104	\$12,032.00	976	\$104,400.00	1,080	\$116,432.00



Building form...crafting function

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Enclosed Trailer		X			
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Rough Hardware & Small Tools			X		
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Temporary Site Fences and Gates (if required)		X			
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Temporary Heat for Building (if required)		X			
Temporary Electric for Building (if required)		X			
Temporary Water for Building (if required)		X			
Progressive Cleaning		X			
Final Cleaning				X	
Dumpster & Waste Removal		X			
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Adena Payment & Performance Bonds (if required)		X			
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General Liability & Umbrella Insurances		X			
Professional Liability Insurance		X			
Other Insurance required by Contract Documents		X			
GENERAL CONDITIONS TOTALS	\$ 21,232.00				\$ 124,000.00



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AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for two (2) Provider Agreements; RE1J Sch

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County and Re1-J school district

Term Begins:

Term Ends:

Grant Contract #:

Summary:

2 agreements with school district

Fiscal Impact:

Submitted by: Kari Commerford

Submitter's Email Address: kcommerford@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 8/9/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient. SO 8/9/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/9/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023

PROVIDER AGREEMENT

This Provider Agreement ("Agreement") made effective the 15th of August, 2023 is by and between the REIJ School District ("District") whose address is 800 North Boulevard St., Gunnison, CO 81230 and the Board of County Commissioners of Gunnison County, of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 ("Provider") to benefit the Juvenile Services Department.

RECITALS

"Provider" will deliver professional services that promote mental health of youth K-2nd grade by supporting the GES school counselor and school-based therapist. The provider will run groups, work one on one with students to support emotional regulation, provide skill-based sessions up to 20 hours a week.

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and the mutual covenants and obligations hereinafter set forth, the parties agree as follows:

1. TERM.

The term of this Agreement shall commence on the date first set forth above and shall be considered for renewal on June 30th, 2024.

2. SCOPE OF SERVICES.

"Provider" shall furnish all materials, supervision, supplies and equipment to complete the services as more specifically set forth on Exhibit A, attached hereto and incorporated herein by this reference. "Provider" will support the REI-J school district by assisting the District in promoting Social Emotional Learning and mental health. All services shall be performed in a timely manner and in accordance with generally accepted standards for "Provider's" profession and all applicable federal, state and local laws and regulations affecting the services or the subject matter thereof. "Provider" acknowledges that this is a non-exclusive Agreement, and the District may contract with additional or other providers able to furnish the same or similar services as it deems appropriate to do so.

3. COMPENSATION BONUS AND EXPENSES.

In exchange for "Provider's" performance of the services during the Term, the District shall pay "Provider" fees as follows: \$25,000 to be paid on or before December 30th, 2023.

4. INDEMNIFICATION

The school district agrees to indemnify, defend and hold harmless Gunnison County "Provider", from any and all liability, claims, liens, demands, actions and causes of action whatsoever

(including reasonable attorney's and expert's fees and costs) arising out of or related to any loss, cost, damage or injury, including death, of any person or damage to property of any kind caused by the misconduct or negligent acts, errors or omissions of "Provider" or its employees, sub-Providers or agents in connection with this Agreement. This provision shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage occurring prior to such termination.

5. INSURANCE.

"Provider" agrees that at all times during the Term of this Agreement that "Provider" shall carry and maintain, in full force and effect and at its sole cost and expense, the following insurance policies. Within thirty (30) days of the execution of this Agreement, "Provider" will provide insurance certificates to the District.

- (a) Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by "Provider" during the term of this Agreement.
- (b) Comprehensive General Liability Insurance or the equivalent in an amount not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury Liability, and \$500,000 for Property Damage Liability.
- (c) Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than \$150,000 for any injury to one person in any single occurrence and in an amount no less than \$600,000 for any injury to two or more persons in any single occurrence.

6. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, proposals, negotiations and representations pertaining to the obligations to be performed hereunder.

7. MISCELLANEOUS.

- (a) SEVERABILITY. If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.
- (b) AMENDMENT. No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the parties to be bound thereby.
- (c) NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this Agreement is, or shall be construed to be, a waiver, in whole or part, by the Board of County Commissioners of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

8. ATTORNEYS FEES.

If any party hereto shall bring any suit or action against another for relief, declaratory or otherwise, arising out of this Agreement, the prevailing party shall have and recover against the other party, in addition to all court costs and disbursements, such sum as the court may adjudge to be reasonable attorney fees and expert witness fees.

9. GOVERNING LAW.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Exclusive jurisdiction and venue for any legal proceedings related to this Agreement shall be in the state District Court governing Gunnison, Colorado.

10. IMMIGRATION COMPLIANCE CERTIFICATION.

- (a) "Provider" certifies that "Provider" does not and will not knowingly contract with or employ illegal aliens to work under this Agreement.
- (b) "Provider" certifies that "Provider" has required its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this Agreement.
- (c) "Provider" certifies that it has attempted to verify the eligibility of its employees and subcontractors to work through the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security.
- (d) "Provider" agrees to comply with all reasonable requests made in the course of an investigation under C.R.S. 8-17.5-102 by the Colorado Department of Labor and Employment.
- (e) "Provider" agrees to comply with the provisions of C.R.S. 8-17.5-101 et seq

11. COUNTERPARTS: FACSIMILE TRANSMISSION.

This Agreement may be executed by facsimile and/or in any number of counterparts, any or all of which may contain the signatures of less than all the parties, and all of which shall be construed together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below to be effective as of the date first above written.

Chairperson, Board of County Commissioners

Date Signed

Attestation





District Superintendent

John Klingman
Attestation

Date Signed

8/8/2023
Date Signed

Exhibit A

\$25,000 for Clinical Case Managing Coordinator to provide professional services that promote mental health of youth K-2nd grade by supporting the GES school counselor and school-based therapist. The provider will run groups, work one on one with students to support emotional regulation, and provide skill-based sessions up to 20 hours a week.

PROVIDER AGREEMENT

This Provider Agreement ("Agreement") made effective the 15th of August, 2023 is by and between the RE1J School District ("District") whose address is 800 North Boulevard St., Gunnison, CO 81230 and the Board of County Commissioners of Gunnison County, of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 ("Provider") to benefit the Juvenile Services Department.

RECITALS

"Provider" will deliver professional services that promote mental health including: Social Emotional curriculum delivery, skill-based groups, professional development for school staff, Wraparound services for youth involved in 2 or more systems, restorative practices facilitation, conferencing and training, and diversion services for youth to the Re1-J School District ("School").

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and the mutual covenants and obligations hereinafter set forth, the parties agree as follows:

1. TERM.

The term of this Agreement shall commence on the date first set forth above and shall be considered for renewal on June 30th, 2024.

2. SCOPE OF SERVICES.

"Provider" shall furnish all materials, supervision, supplies and equipment to complete the services as more specifically set forth on Exhibit A, attached hereto and incorporated herein by this reference. "Provider" will support the RE1-J school district by assisting the District in promoting Social Emotional Learning and mental health. All services shall be performed in a timely manner and in accordance with generally accepted standards for "Provider's" profession and all applicable federal, state and local laws and regulations affecting the services or the subject matter thereof. "Provider" acknowledges that this is a non-exclusive Agreement, and the District may contract with additional or other providers able to furnish the same or similar services as it deems appropriate to do so.

3. COMPENSATION BONUS AND EXPENSES.

In exchange for "Provider's" performance of the services during the Term, the District shall pay "Provider" fees as follows: \$50,000 to be paid on or before December 30th, 2023.

4. INDEMNIFICATION

The school district agrees to indemnify, defend and hold harmless Gunnison County "Provider", from any and all liability, claims, liens, demands, actions and causes of action whatsoever (including reasonable attorney's and expert's fees and costs) arising out of or related to any loss, cost, damage or injury, including death, of any person or damage to property of any kind caused by the misconduct or negligent acts, errors or omissions of "Provider" or its employees, sub-Providers or agents in connection with this Agreement. This provision shall survive any termination or expiration of this Agreement with respect to any liability, injury or damage occurring prior to such termination.

5. INSURANCE.

"Provider" agrees that at all times during the Term of this Agreement that "Provider" shall carry and maintain, in full force and effect and at its sole cost and expense, the following insurance policies. Within thirty (30) days of the execution of this Agreement, "Provider" will provide insurance certificates to the District.

- (a) Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by "Provider" during the term of this Agreement.
- (b) Comprehensive General Liability Insurance or the equivalent in an amount not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury Liability, and \$500,000 for Property Damage Liability.
- (c) Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than \$150,000 for any injury to one person in any single occurrence and in an amount no less than \$600,000 for any injury to two or more persons in any single occurrence.

6. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, proposals, negotiations and representations pertaining to the obligations to be performed hereunder.

7. MISCELLANEOUS.

- (a) SEVERABILITY. If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.
- (b) AMENDMENT. No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the parties to be bound thereby.
- (c) NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this Agreement is, or shall be construed to be, a waiver, in whole or part, by the Board of County Commissioners of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

8. ATTORNEYS FEES.

If any party hereto shall bring any suit or action against another for relief, declaratory or otherwise, arising out of this Agreement, the prevailing party shall have and recover against the other party, in addition to all court costs and disbursements, such sum as the court may adjudge to be reasonable attorney fees and expert witness fees.

9. GOVERNING LAW.

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- (b) "Provider" certifies that "Provider" has required its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this Agreement.
- (c) "Provider" certifies that it has attempted to verify the eligibility of its employees and subcontractors to work through the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security.
- (d) "Provider" agrees to comply with all reasonable requests made in the course of an investigation under C.R.S. 8-17.5-102 by the Colorado Department of Labor and Employment.
- (e) "Provider" agrees to comply with the provisions of C.R.S. 8-17.5-101 et seq.

11. COUNTERPARTS: FACSIMILE TRANSMISSION.

This Agreement may be executed by facsimile and/or in any number of counterparts, any or all of which may contain the signatures of less than all the parties, and all of which shall be construed together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below to be effective as of the date first above written.

Chairperson, Board of County Commissioners

Date Signed

Attestation

Leah Nichols

District Superintendent

8-8-2023

Date Signed

John Klingnitz

Attestation

8/8/2023

Date Signed

Attachment A:

\$25,000 for Direct Services in the school through SEL Coordinators

- Lead organization for 4 free youth mental wellness visits for all RE1-J school district youth 12-18 years old.
- Owning Up Curriculum delivery in CBCS 6th and 9th grade, GMS 6th GHS 9th grade
- Health Class co-teaching on applicable topics
- Guidance Class co-teaching on applicable topics
- Support student clubs, SOS, and youth
- Restorative Practices facilitation, conferencing and training

\$15,000 for FAST and Wraparound Services

FAST Review Team

The partner agencies will refer youth early on to the multi-system Family Advocacy Support Team. Members include representatives from the Gunnison County Department of Human Services, Gunnison Watershed School District, 7th Judicial District Probation, The Center for Mental Health, Gunnison Valley Mentors, Project Hope, City of Gunnison Police Department, Gunnison County Juvenile Services, and an Educational Attendance Advocate for purposes of assessment, access to service and planning. Members meet weekly in order to staff cases to determine what level of care the youth and family will be served by (ISST, HFW or Cross over) and helps to make suggestions on additional services. Services and supports are designed to promote family wellbeing in the least restrictive and least intrusive manner possible implemented through the three-tiered service delivery model and with the family. Target population is youth and families (0-21). When the FAST review team determines staffing for each case, coordinated care will be supported through Individualized Service and Support Team (“ISST”), High Fidelity Wraparound, family engagement meetings or the Crossover Youth Practice Model. Service planning and provision shall be strengths based, family focused and well-coordinated. The Team will work to avoid duplication of services, establish a realistic individualized support plan and assure provider follow through.

The focus of the initiative includes:

- Early identification of youth and families needing assistance
- Accessible and individualized service
- A 2 Generational model that works within a family systems approach.
- Monitoring and follow through
- Aftercare follow up
- Program evaluation

These services are linked to the following performance measure: Children and youth with improved school attendance rates, Children and youth with fewer disciplinary actions, and CMP children/youth who received a positive depression screening that receive a follow-up appointment within 7 days. FAST serve 10-15 youth and their families per. Year.

Juvenile Diversion \$10,000

The goal of juvenile diversion is to help divert youth away from the court system and help with and systems restore harm and relationships through our restorative practice and trauma-informed lens. Through this multi-system approach Juvenile Services helps youth access mental health

services, gain resilience skills, increased opportunities for prosocial activities and support families and maintain low rates of recidivism of criminal offenses. All of our youth are screened for mental health services and 90% of them screen high for need for services and are able to access mental health services through this program. Funds will be used to continue to connect youth to mental health services and to increase the Early Intervention program manager's ability to use restorative practices with youth and serve youth at the school. This position will also work with the Education and Behavioral Interventionist to assist the school with youth and families who meet the criteria for suspension, truancy and to develop youth specific plans for returning to school or earning educational credits in a non-traditional way.

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Development Improvements Agreement fo

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Leah Marie Llc

Term Begins:

Term Ends:

Grant Contract #:

Summary:

This D.I.A. is to secure the construction of a private driveway approximately 2,350 feet land through sage and trees off of CR 887. There has been significant work on this with multiple County offices and the applicant. This agreement falls in line with that work.

Fiscal Impact:

Submitted by: MARTIN SCHMIDT

Submitter's Email Address: mschmidt@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023

DEVELOPMENT IMPROVEMENTS AGREEMENT

FOR

DRIVEWAY PLAN FOR LEIGH MARIE LLC

7777 CR 887

This Development Improvements Agreement is entered into this ____ day of _____, 20____ between the Board of County Commissioners of Gunnison County, Colorado (herein the "County"), and Leigh Marie LLC, 7777 CR 887, Gunnison, Colorado 81230 (herein the "Permittee") as follows:

1. PURPOSE. The Permittee has submitted to the County the Permittee's application for a permit pursuant to the Gunnison County Standards and Specifications regarding a Driveway Plan (herein the "Project"). The legal description of the Project is attached hereto and incorporated herein as Exhibit "A". As valuable and sufficient consideration for this Agreement, the County and the Permittee agree that approval of such application by the County is expressly conditioned on completion of the improvements described in paragraph 7, below (herein the "Improvements") to the specifications described herein and by the times specified herein. The County and the Permittee further agree that such Improvements are appropriate and necessary requirements to be required by the County, and to be performed by the Permittee and which Permittee shall perform. The County and Permittee further agree that an agreement guaranteeing the Permittee's performance secured by suitable security to protect the interests of the County, and the public in the amount set forth herein is an appropriate condition to the County's approval of such permit. The parties have entered into this agreement to memorialize such understandings and agreements. The relationship of the parties to this Agreement is contractual; Permittee is an independent contractor and is not an agent of the County.
2. DEVELOPER BOUND. The Permittee agrees to accept and be bound by the terms and conditions of the County's issuance of its approval of the Permit and the terms and conditions of this agreement. Permittee accepts the County's review and permitting authority; process and performance of same in connection with the permit as legal and valid and waives any defect therein.
3. CONSTRUCTION.
 - A. The Permittee agrees to complete construction of the Improvements within the Project in the locations set forth on the plans attached hereto as Exhibit B, and in accordance with the specifications thereof by not later than September 30, 2024, acts of God and any cause beyond the reasonable control of the Permittee excepted, including without limitation labor disputes, laws, regulations, or orders of any governmental entity, orders of court, inability to obtain any required authorization, act of war or donations arising out of or attributable to war, riot, civil strike, insurrection or rebellion, fire, explosion, earthquake, storm, flood or other adverse weather condition, delay or failure by suppliers or material men, contractors, or subcontractors, shortage of or inability to obtain labor, supplies or materials.
 - B. The completion deadline set forth in this paragraph 3 may be extended by the County in its sole discretion upon written request of Permittee if the County determines that: (1) such extension of time will not operate to the detriment of the County, the public or the owners of property within the Project; and (2) the County's security is adequate to ensure full performance by Permittee by the extended completion date; and (3) that such an extension would not be in conflict with the conditions of the approved Permit. The County may require Permittee to provide, at Permittee's cost, supplemental estimates by Permittee's engineer of the costs of completion and to provide additional security as a prerequisite to its extension of any completion date. Any extended completion date granted by the County hereunder may be further extended in like manner.
 - C. Each contract entered into by Permittee for construction of the Improvements shall provide that the County is a third-party beneficiary with all rights to enforce such contracts in place of Permittee in the event of a default by Permittee. Permittee shall provide to County a copy of each such contract upon its execution.
4. ESTIMATED COST. The total cost of the Improvements to be constructed by the Permittee is estimated currently to be \$45,741 plus a contingency amount.
5. SECURITY. In order to secure of obligations of the Permittee herein, the Permittee and the County agree that the Permittee shall, at Permittee's sole cost, and before starting work on any phase of the Project or Improvements, and before conveying any portion of the Project, obtain and provide to the County a bond, irrevocable letter of credit or other performance guarantee in a form and content satisfactory to the County to the benefit of the county in the amount of \$57,176.25 which is 125 percent of the currently estimated cost of the Improvements to include a reasonable contingency amount.

If the contract(s) provided to the County pursuant to paragraph 3C indicate a substantially different total cost than estimated in paragraph 4, the amount of security may be increased or decrease. For the purposes of this paragraph 5, substantial is defined as 10 percent or more.

Pending full performance of all of the terms and conditions hereof by the Permittee, the County shall retain said security and shall remain the beneficiary of such security. In the event of any uncured default hereunder the County in its sole discretion, and without any other authority required, may draw upon said security up to the full amount of \$57,176.25 upon presentation by the County to Permittee and its insurer of a written statement by the County that such uncured default exists. Upon timely performance of all terms and conditions hereof, said security shall be tendered by the County to the Permittee.

6. CERTIFICATION.

- A. Not later than October 15, 2023, a registered Colorado engineer retained by the Permittee at its expense shall certify to the County whether the Permittee's construction obligations regarding Improvements under this agreement have been fully and faithfully performed according to design and time specifications. Upon receipt of such certification and a complete copy of as built specifications and drawings, the County shall review the same and shall make an independent judgment whether to accept the same in the sole discretion of the County. Permittee agrees not to cover or otherwise prevent inspection of the Improvements constructed hereunder until Permittee's engineer and the County's representative have had reasonable opportunity to inspect such Improvements.
- B. Not later than October 15, 2023, Permittee shall provide to the County Attorney a sworn affidavit, signed by the Permittee's authorized representative, that the Improvements completed have been paid for, in full, by the Permittee. The Permittee shall be responsible for the information so provided. Said written certification will be reviewed by the County, but the County shall have no responsibility or liability to any part regarding the veracity of the information so provided.

7. SCOPE OF WORK.

- A. The scope of work to be done by the Permittee shall include, but not be limited to: construction of a driveway pursuant to Driveway Permit Application and Exhibit B Driveway Plan, within the Easement Area described in Exhibit A and subject to Permittee's Reclamation Permit Application.
- B. The conditions of this agreement and the permit are such that if the obligations hereunder of the Permittee are well, truly, faithfully and timely performed by Permittee, inspected and certified to by the Permittee's engineer, and such performance is accepted by the County in the County's sole discretion, the Permittee's obligations to the County under this agreement except as set forth in 7C below shall be at an end; otherwise such conditions and obligations shall remain in full force and effect.
- C. For a period of one year from and after the acceptance of all of the work described in paragraph 7A, above, Permittee shall, at its own expense, make all needed repairs and replacements to such work as shall, in the County's reasonable opinion, become necessary. The County shall have the right to retain up to \$57,176.25 of the security for up to one year following the acceptance of all of the work described in paragraph 7A. above, as security to ensure such repair and replacement.

8. PARTIAL RELEASE OF SECURITY.

- A. The County recognizes that as work proceeds upon the Improvements, the County's need or security shall be reduced. Accordingly, the County agrees to a reasonable partial release of the security to be delivered to the County pursuant to paragraph 5 hereof upon receipt of a written certification, by Permittee's engineer, stating the estimated cost of remaining completion, in which event the County shall retain security equal to 125 percent of such estimated cost of remaining completion plus 20 percent of the original estimated cost of the Improvements and shall release the balance of all security held by the County.
- B. Upon Permittee's entering into a contract or contracts for construction of improvements hereunder, Permittee and County may negotiate an addendum to this Agreement setting forth such reasonable schedule for partial releases of the security in accordance with the anticipated construction schedule. In such circumstance, the County shall designate and authorize the County Manager, Director of Public Works or County Attorney to make the partial release(s) hereunder after consultation with appropriate County staff.

9. PERMITTEES' DEFAULT. In the event of any default hereunder by the Permittee, the County shall give notice to the Permittee specifying the nature of such default, which notice shall be given by facsimile transmission or by certified mail with return receipt requested addressed to the Permittee at PO Box 25, Morrison, CO 80465. In the event the Permittee does not remedy such default to the satisfaction of the County within 14 days following such notice, the County may elect, in its discretion to exercise all remedies available to it, including but not limited to:

- 9.1 To specifically enforce the terms and conditions of this agreement;
- 9.2 To draw upon or otherwise obtain the benefit of the security;
- 9.3 To exercise any other rights and obtain any other remedies provided by law;

- 9.4 To obtain from the Permittee either an extension of the County's security hereunder to guarantee the completion of the improvements only on the conditions (1) that suitable additional security is provided the County to guarantee the construction of said Improvements within the new time period determined by the County, and (2) that the County determines that it would not be detrimental to the interest of the County, the public or the owners of property within the Project to allow such extension (3) that the County determines that it would not be in conflict with the conditions of the approved Permit.
10. RECORDING OF AGREEMENT. Upon its execution, this Agreement shall be recorded by the Permittee and shall be a covenant running with the property herein described in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.
 11. RETENTION OF POLICE POWERS. The County retains the power and right to impose additional requirements upon Permittee with regard to the Project if the failure to do so would place the public or owners of property within the Project in a perilous condition, or in the event of substantially changed conditions; that is, nothing in this Agreement is or shall be construed to be a bargaining away of the County's police power.
 12. TRANSFER OR ASSIGNMENT. No transfer or assignment of any of the rights or obligations of the Permittee under this Agreement shall be permitted without prior written approval of the County which approval shall not unreasonably be withheld.
 13. TITLE AND AUTHORITY. The Permittee expressly warrants and represent to the county that it is the record owner of the real property constituting the Project, and further represents and warrants, together with the undersigned individual, that the undersigned individual has full power and authority to enter into Agreement. The Permittee and the undersigned individual understand that the County is relying on such representations and warranties in entering in to this Agreement.
 14. LITIGATION. Nothing contained herein shall prevent either party from obtaining a judicial determination of the violation of its rights hereunder; provided however, that written notice to the other party advising the other party of the alleged violation, and advising that in the event the matter is not resolved by the parties within 14 days thereafter, shall be a condition precedent to the commencement of any litigation.
 15. TIME OF ESSENCE. It is mutually agreed that time of performance is an essential part of this agreement and that all terms, covenants and conditions herein shall extend to and become obligatory upon the successors and assigns of the respective parties hereto.
 16. VENUE AND CHOICE OF LAW. This agreement is entered into in Gunnison County, Colorado and it I agreed that the exclusive jurisdiction and venue of any action pertaining to the interpretation or enforcement of this agreement shall be in the District Court of Gunnison County, Colorado. The exclusive choice of law pertaining to this transaction shall be that of the State of Colorado without giving effect to Colorado choice of law principles.
 17. SEVERABILITY. If any term or provision of this agreement shall be invalid or unenforceable, the remainder of this agreement and the terms and provisions thereof shall not be affected thereby and all other terms and provisions of the agreement shall be valid and enforceable to the full extent permitted by law.
 18. ATTORNEYS' FEES. If any action is brought in a court of law by either party to this agreement as to the enforcement, interpretation or construction of this agreement or any document provided for herein, the prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all cost incurred in the prosecution of defense of such action.
 19. HOLD HARMLES CLAUSE. The Permittee shall indemnify, defend and hold harmless the County, its officials, employees and agents from and against liability for damages, injury or death which may arise from the direct or indirect operations of the owner, Permittee, contractors or subcontractors, which relate to the Project.
 20. ENTIRE AGREEMENT. This agreement contains the entire and only agreement between the parties regarding development improvements, and no oral statements or representations not contained in this agreement shall be of any force and effect between the parties. This agreement shall not be modified or amended in any manner except by written instrument executed by the parties.
 21. BINDING AGREEMENT. This agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

22. NOTICE. All notices and other communications required or permitted under this Agreement shall be in writing and shall be, as determined by the person giving such notice, either hand delivered, mailed by registered or certified mail, return receipt requested or by telecopier or telegraphic communication to the required party at the following addresses:

COUNTY: Board of County Commissioners
200 East Virginia
Gunnison, CO 81230 Telecopier: (970) 641-3061

DEVELOPER: Leigh Marie LLC
PO Box 25,
Morrison, CO 80465

IN WHEREOF the parties have executed this agreement the date first above written.

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF GUNNISON COUNTY

Attest: _____ By: _____
County Clerk Chairperson or Designee

DEVELOPER
By: Scott Wagner
Scott Wagner

STATE OF COLORADO)
COUNTY OF Gunnison

The foregoing instrument was acknowledged before me this 27th day of July, 2023.
By Scott Wagner

My commission expires: 03/21/2024
Witness my hand and official seal.

Holly Zahand
Notary Public
Address: 305 Tyler Ln.
Unit B
Gunnison, CO 81230

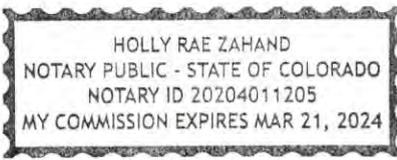
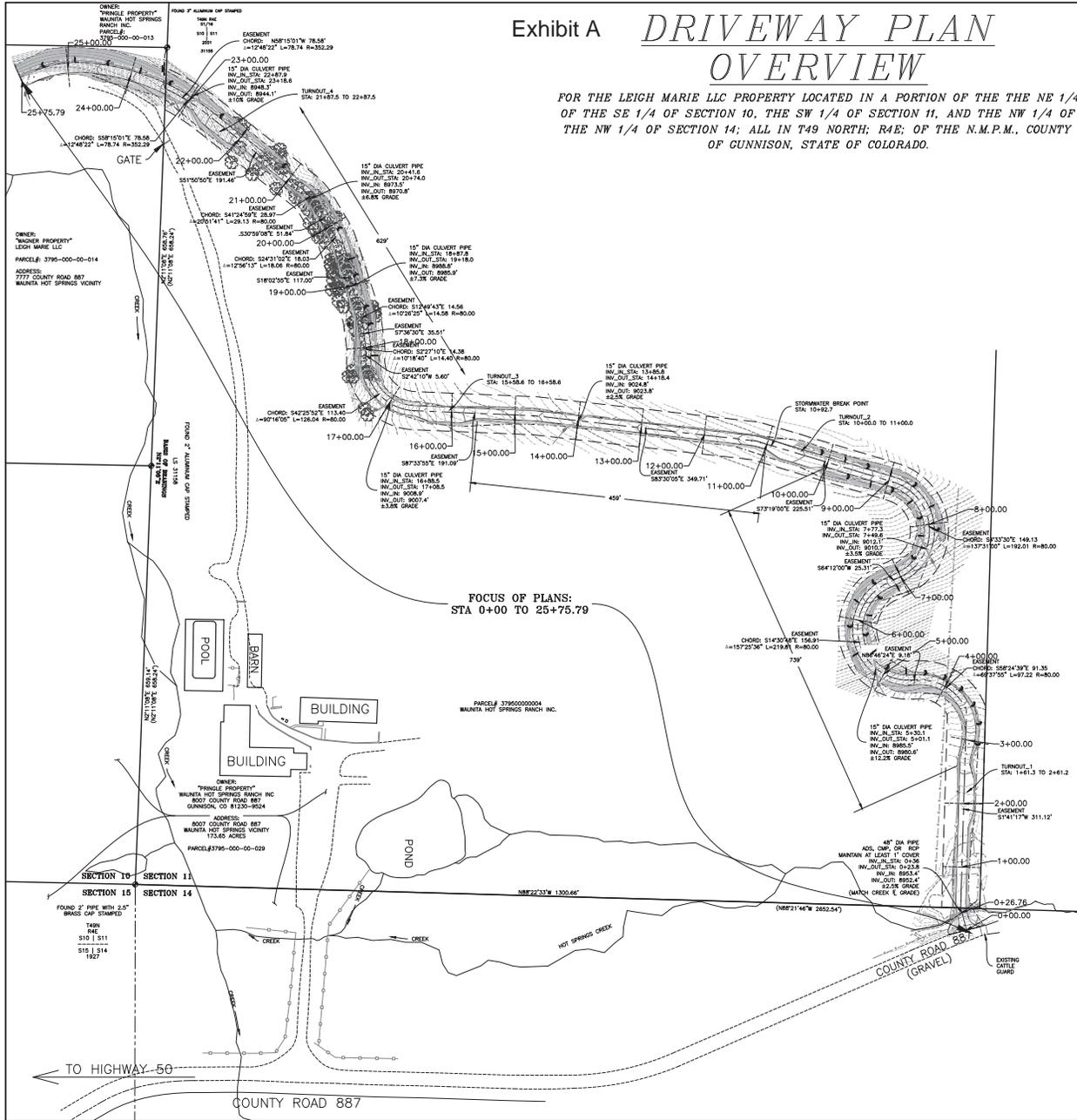


Exhibit A DRIVEWAY PLAN OVERVIEW

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH, R4E; OF THE N.M.P.M., COUNTY OF CUNNISON, STATE OF COLORADO.

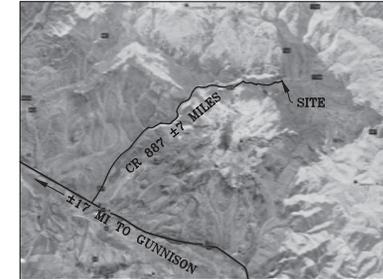


SURVEYOR'S NOTES:

- THE PURPOSE OF THESE PLANS IS TO SHOW POTENTIAL ROAD CONSTRUCTION ACROSS A PORTION OF THE WAUNTA HOT SPRINGS RANCH INC. PROPERTY EXTENDING THE TWO GRIDS AS SHOWN, ALTHOUGH THE WHOLE DRIVEWAY ACROSS THE WAUNTA HOT SPRINGS PROPERTY TO THE EXISTING COUNTY ROAD 887 WAS EVALUATED.
- THESE PLANS ARE NOT TO BE CONSIDERED AS AN IMPROVEMENT SURVEY NOR A LAND SURVEY PLAT, AND SHALL NOT BE USED FOR THE PURPOSE OF BUILDING FENCES OR BOUNDARY DETERMINATIONS.
- THE PLAT OF "VALUATION LAND SURVEY" SITUATED IN PART OF THE 1/2 OF SECTION 10 TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE 10TH MERIDIAN, STATE OF COLORADO PREPARED BY CHRISTOPHER P. JULIAN P.L.S. 31159, DATED 10/31/2007, FOR AND ON BEHALF OF PRECISION SURVEY AND MAPPING, INC. AS WELL AS THE DEPOSITION RESURVEY OF TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE 10TH MERIDIAN, MERIDIAN IN COLORADO RESURVEY BY FRANK W. JOHNSON DATED OCTOBER 6, 1931 - AND ACCEPTED BY THE DEPARTMENT OF THE INTERIOR GENERAL LAND OFFICE ON MAY 20, 1932 - BE USE FOR SECTION LINE AND/OR PROPERTY LINE RESURVEY PURPOSES.
- THE BASIS OF BEARINGS FOR THIS MAP IS THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE 10TH MERIDIAN, WITH A MEASURED BEARING OF N21°10'11" W WITH ALL BEARING HEREON RELATIVE THERETO. THE SAID ALTAZIMUTH SURVEY WAS ROTATED CLOCKWISE 07°34'21" TO THIS BASIS OF BEARINGS, AND SAID TOWNSHIP RESURVEY WAS ROTATED CLOCKWISE 04°14'17" TO THIS BASIS OF BEARINGS TO MATCH THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 49 NORTH OF SAID SECTION 49 - AS MEASURED AT A GEODETIC BASIS OF BEARINGS. ONLY THE LINES MEASURED HEREON ARE LABELED.
- ELEVATION CONTOURS FOR THESE PLANS ARE BASED ON A NO. 4 REBAR WITH PLASTIC CAP "CONTROL POINT", WITH AN ELEVATION (DMSD 88) OF 8803.11', WITH MAJOR CONTOURS AT 2' INTERVALS, AND MAJOR CONTOURS AT 1' INTERVALS, AS SHOWN HEREON.

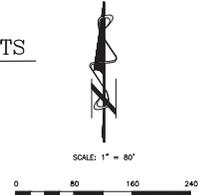
ENGINEER'S NOTES:

- THE PORTION OF THE WAUNTA HOT SPRINGS RANCH INC. PROPERTY OVER WHICH THE PROPOSED ROAD IS SHOWN, IS ZONED COMMERCIAL. THE PORTION OF THE LEIGH MARIE LLC PROPERTY IS ZONED AERIAL/INDUSTRIAL.
- THE PROPOSED ROAD IS A 24' WIDE ROAD WITH A 16' WIDE LANE AND A 4' SHOULDER ON EACH SIDE.
- THE TERRAIN IS CLASSIFIED AS MOUNTAINOUS AS THE AVERAGE CROSS SLOPE IS GREATER THAN 15%.
- A DESIGN SPEED OF 15 MPH WAS CHOSEN FOR THE ROAD.
- A MINIMUM VERTICAL CURVE K-VALUE OF 10 WAS USED FOR 15 MPH AREAS PER AASHTO. AASHTO DOES NOT PROVIDE MINIMUM K-VALUES FOR SPEEDS LESS THAN 15 MPH.
- THE PROPOSED ROAD IS SINGLE-LANE, 2X MINIMUM CROWNED, 16-FOOT-WIDE, AND HAS PROPOSED DITCHES AS SHOWN, WITH CULVERTS AT LOW SPOTS.
- THE EXISTING ROADWAY ALIGNMENT WAS EVALUATED WITH VEHICLE TRACKING SOFTWARE, AND WAS FOUND TO BE ACCEPTABLE FOR A 20-20 (SHOULDER) UNIT TRUCKS. THE CENTER POINTS PROPOSED WITH A 16' WIDE LANE WAS EVALUATED AND SHOWN TO BE ACCEPTABLE FOR A 80-40 (INTERMEDIATE SEMI-TRAILER).
- THE SOILS IN THE AREA ARE ROCKY, BUT CONTAIN SOME CLAY CONTENT. FOR THIS REASON, A DITCH AND CULVERT PIPES ARE PROPOSED TO REMOVE POSITIVE SURFACE WITH NO IMPROVED WATER.
- IN AREAS WITH A RELATIVELY LOW SUBGRADE SUPPORT FROM THE CLAYEY SOILS, AN ADDITIONAL MINIMUM 6" OF 80# LIMESTONE SUBGRADE BENEATH A LAYER OF TRUCK NONWOVEN GEOTEXTILE FABRIC IS RECOMMENDED AT SET-SPOTS AREAS AT THE DISCRETION OF THE ENGINEER.
- SUBGRADE AND SUBBASE LAYERS SHOULD BE COMPACTED IN 15% (MAX) LIFTS AT OPTIMUM MOISTURE CONTENT (NO GEOTECHNICAL REPORT WAS OBTAINED FOR THESE PLANS).
- ROADWAY MATERIALS SHALL BE WELL-GRADED COMPACTED FREE-DRAINING WITHOUT ORGANICS OR CLAY.
- FOR ROADWAY MATERIALS, ONE OPTION IS ROCKY MATERIAL AS CONSTRUCTION, LLC AT (970) 249-8780.
- ROCK CHECK DAMS TO BE INSTALLED IN THE PROPOSED ROADSIDE DITCH AT THE DIRECTION OF THE ENGINEER.
- DISTURBED SOILS SHALL BE RE-SEETED WITH A LOCAL GRASS MIX AS RECOMMENDED BY THE GUNNISON CONSERVATION DISTRICT IS AS FOLLOWS: 40% WESTERN BLUEGRASS, 20% SLENDER BLUEGRASS, AND 20% CANADIAN BLUEGRASS AT 118#/ACRE OR 118#/4200 SQY.
- EROSION CONTROL FABRIC SHALL BE PLACED ON ANY CUT/FILL SLOPE STEEPER THAN 2:1. EROSION CONTROL FABRIC ON SLOPES LESS AT OR LESS THAN 2:1 IS RECOMMENDED.
- 3% IN SLOPE BY THE ENGINEER. SLOPES STEEPER THAN 1:1 IN COMPETENT ROCK MAY BE ALLOWED.
- ROCK CHECK DAMS ARE PROPOSED WITHIN FOCUS AREAS AS NOTED. ROCK CHECK DAMS SHALL CONFORM TO CDOT STANDARD DRAWING M-208-1, AND SHALL BE CONSTRUCTED OF 24" DIA. TYPE VI, ROCK. NATIVE ROCK OF THIS SIZE IS ALLOWED.
- GUNNISON COUNTY ROAD STANDARDS AND SPECIFICATIONS FOR NEW CONSTRUCTION OF ROADS AND BRIDGES (JUNE 2020) WERE USED FOR DESIGN GUIDELINES. ONE WARNING OR WARDEN TO THE STANDARDS (8007) WITHIN TURN OUTS IS RECOMMENDED. FOR THIS DESIGN, THE LOWER TWO TURN OUTS ARE 735 FEET APART AND LOCATED AT THE TOP AND BOTTOM OF THE LOWER CURVED SECTION IN RELATIVELY FLAT AREAS AND ARE INTERVARIABLE. THE WEST MOST TURNOUTS ALSO EXCEEDED 800' (PROPOSED AT 629' APART).



INDEX OF SHEETS

- 1 ROAD PLAN OVERVIEW
- 2-6 PLAN & PROFILE
- 7 CROSS-SECTIONS
- 8 DETAILS



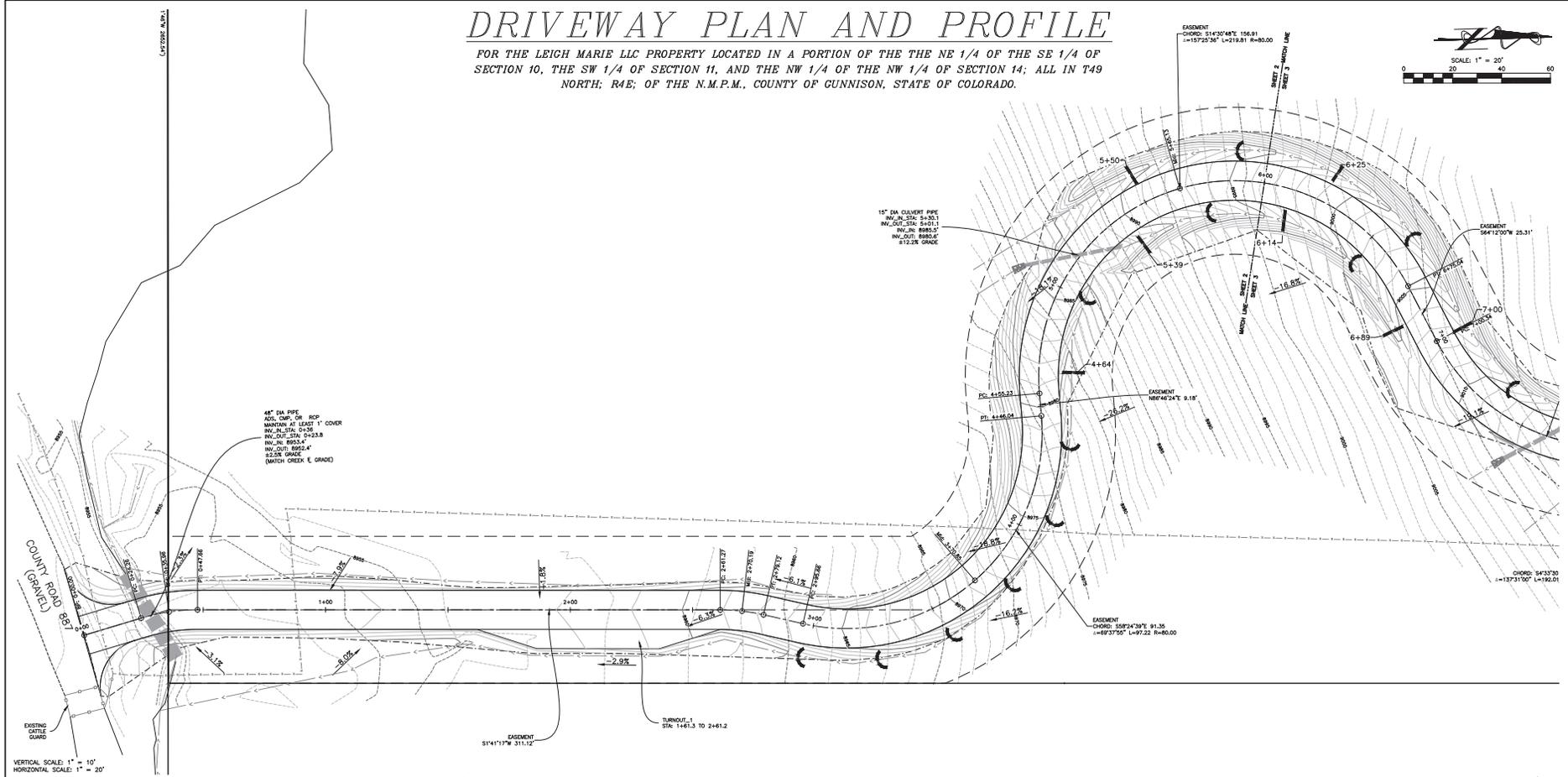
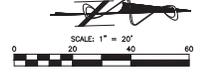
LEGEND	
	SURVEY CONTROL POINT
	ALLOTMENT NONCONFORMITY
	MEASURED OR CALCULATED DIMENSIONS
	DEEDED DIMENSIONS
	EDGE OF EXISTING ROAD/DRIVE
	EDGE OF PROPOSED ROAD/DRIVE
	ROAD/DRIVE CENTERLINE
	PROPOSED CULVERT PIPE
	ROCK CHECK DAMS
	EROSION SOCK
	PROPERTY LINE
	ALLOTMENT SECTION LINE
	BARBED WIRE FENCE
	WOODEN FENCE
	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	PROPOSED MAJOR CONTOUR
	PROPOSED MINOR CONTOUR
	SURFACE GRADE (- IS DOWNHILL)
	TREES (MEAS. ONLY, MANY MORE EXIST)

BY									
REVISION									
DATE									
VAN HORN ENGINEERING AND SURVEYING 1043 FOUR CORNERS RD. • ESTATES PARK, COLORADO 80077 PHONE: (970) 259-2555 • FAX: (970) 259-2556									
DRIVEWAY PLAN OVERVIEW 8007 COUNTY ROAD 887 GUNNISON COUNTY, COLORADO									
SHEET									
DRAWN BY:	JJS								
CHECKED BY:	LAS								
SCALE:	1"=80'								
DATE:	2/20/2023								
SHEET	1								
OF	8								
PROJ. NO.	2010-03-16								

DRIVEWAY PLAN AND PROFILE

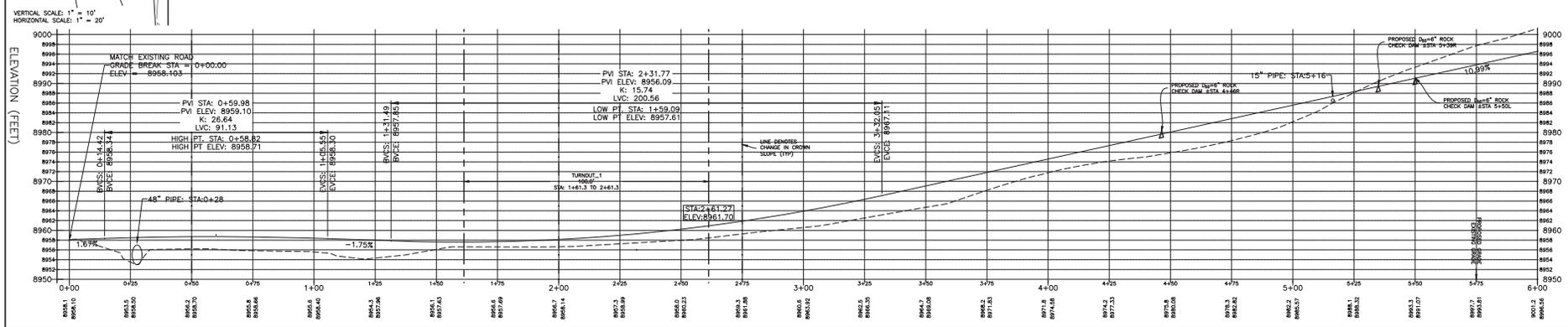
FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH; R4E; OF THE N.M.P.M. COUNTY OF CUNNISON, STATE OF COLORADO.

EASEMENT
CHORD: S14°30'48"E 186.81
L=157'23.28' L=214.81 R=86.00



48" DIA PIPE
K=1, C=1.0, OR RCP
MAINTAIN AT LEAST 1" COVER
INV. IN STA: 0+35.8
INV. OUT STA: 0+23.8
INV. IN: 8985.4'
INV. OUT: 8952.4'
SLOPE: 0.25%
(MATCH CHECK E GRADE)

15" DIA CULVERT PIPE
INV. IN STA: 5+35.1
INV. OUT STA: 5+01.1
INV. IN: 8985.5'
INV. OUT: 8982.6'
SLOPE: 0.25%



DATE	REVISION

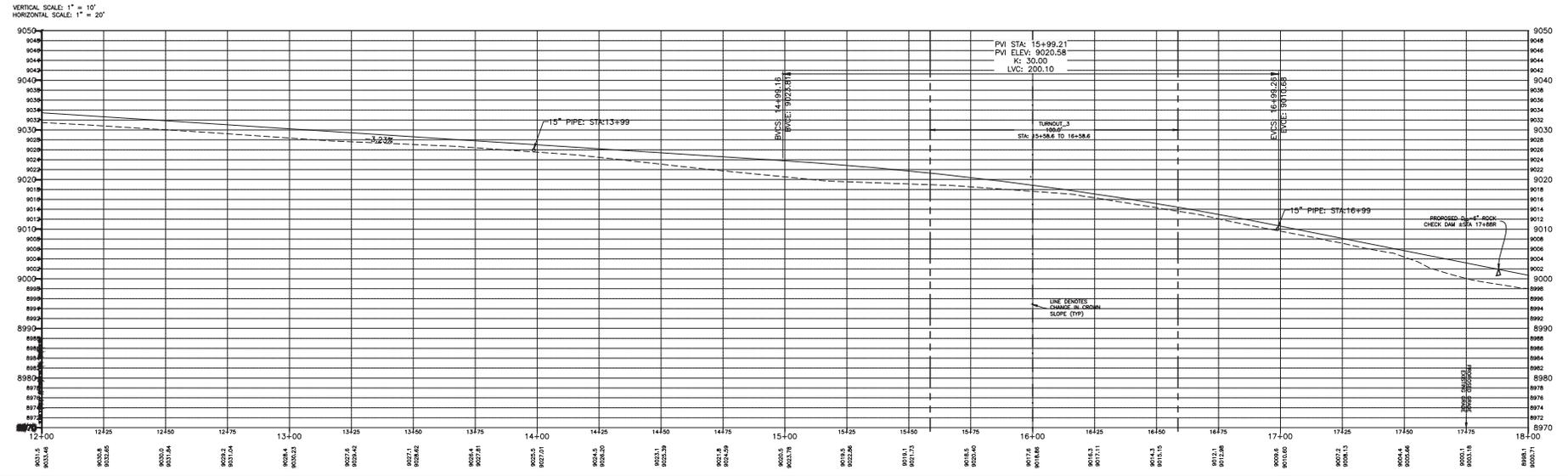
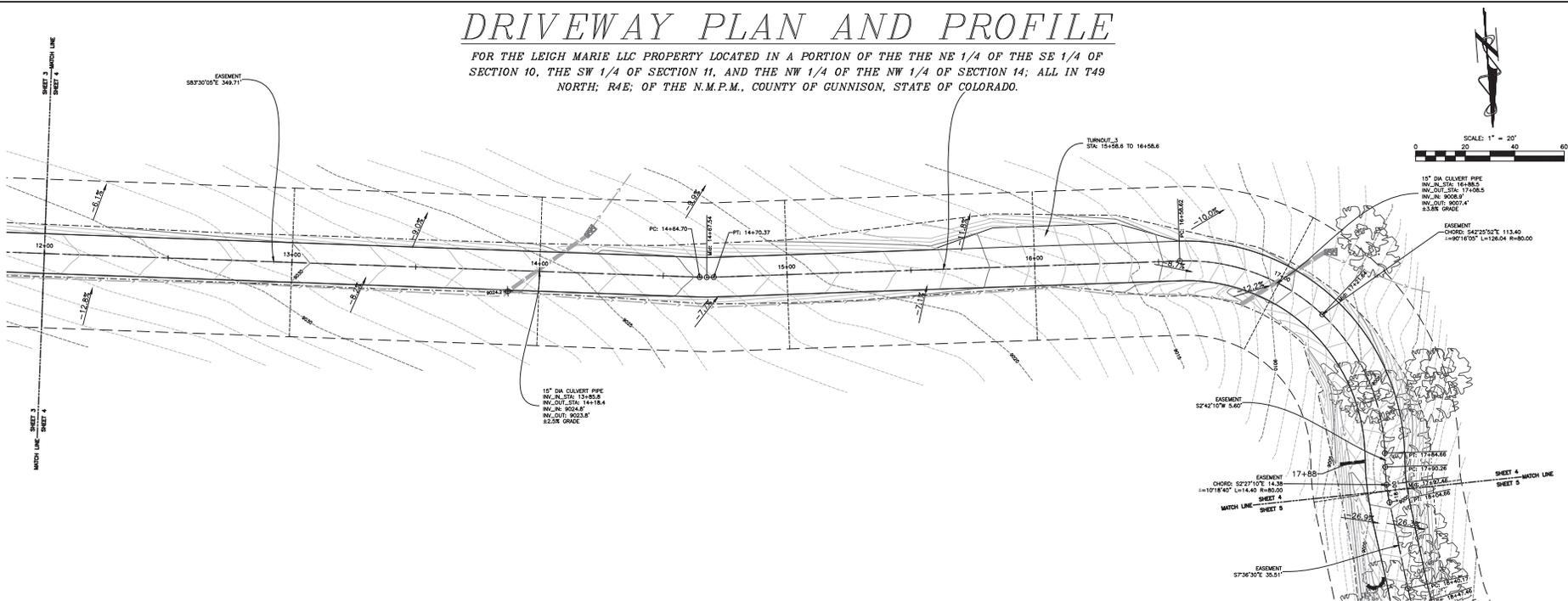


DRIVEWAY PLAN AND PROFILE
8007 COUNTY ROAD 887,
GUNNISON COUNTY, COLORADO

PROJECT	8007 COUNTY ROAD 887, GUNNISON COUNTY, COLORADO
DRAWN BY:	JJS
CHECKED BY:	LAS
SCALE:	1"=20'
DATE:	2/20/2023
SHEET	2
OF	8
PROJ. NO.	2010-03-18

DRIVEWAY PLAN AND PROFILE

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF SECTION 14: ALL IN T49 NORTH; R4E; OF THE N.M.P.M. COUNTY OF CUNNISON, STATE OF COLORADO.



DATE	REVISION

VAN HORN ENGINEERING AND SURVEYING
 1043 FISH CREEK RD. • ESTATES PARK, COLORADO 80517
 PHONE: (303) 589-3355 • FAX: (303) 589-3356

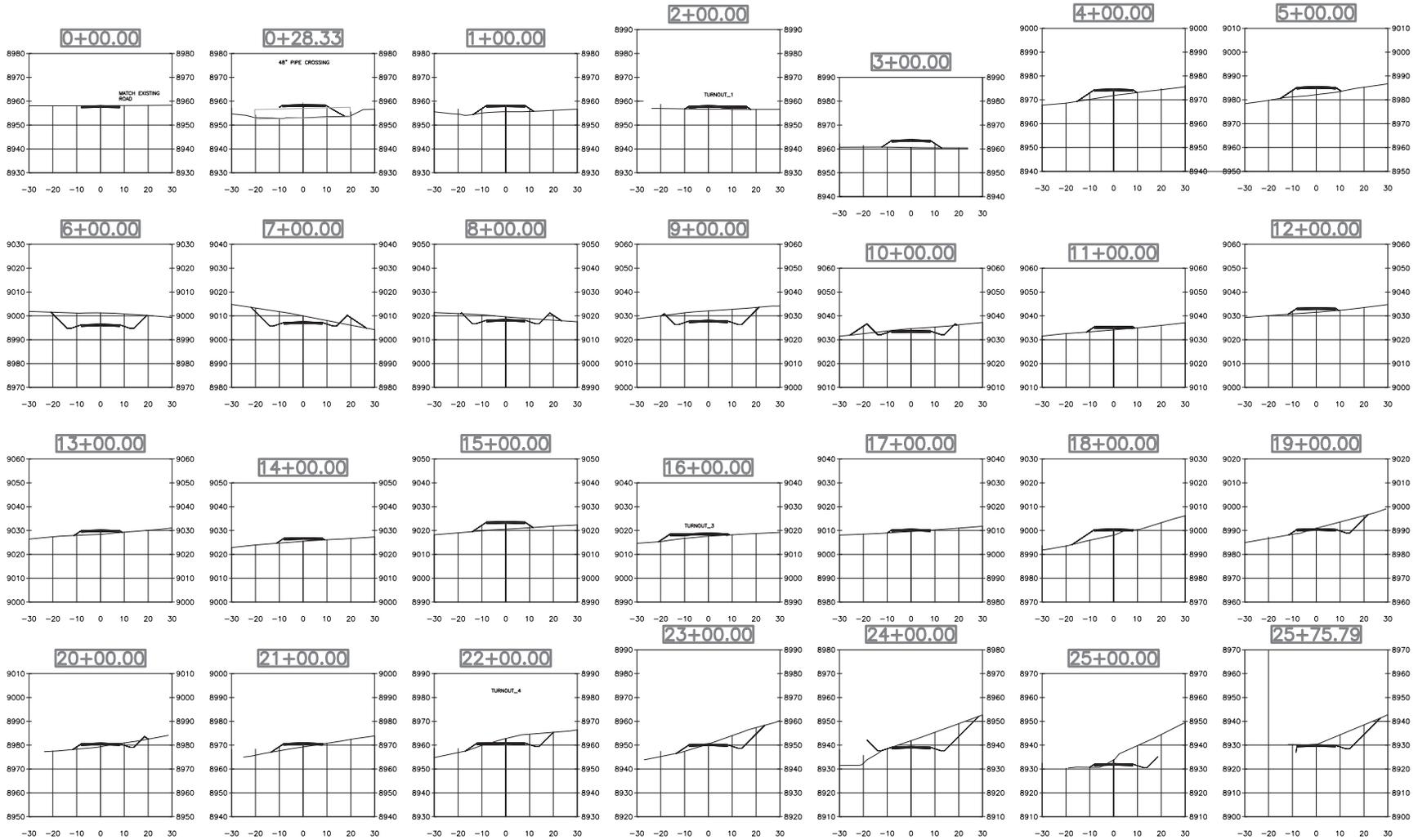
DRIVEWAY PLAN AND PROFILE
8007 COUNTY ROAD 887,
GUNNISON COUNTY, COLORADO

SHEET: **4**
 OF: **8**

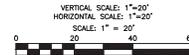
DRAWN BY: JJS
 CHECKED BY: LAS
 SCALE: 1"=20'
 DATE: 2/20/2023
 SHEET: 4
 PROJECT: 2010-03-18

CROSS-SECTIONS

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH; R4E; OF THE N.M.P.M., COUNTY OF GUNNISON, STATE OF COLORADO.



NOTES:
 1. CROSS-SECTIONS WERE NOT REQUIRED WITH THIS DESIGN, BUT ARE A NATURAL BYPRODUCT OF AUTOCAD GENERATION OF ROADWAY DESIGN, AND WERE THEREFORE INCLUDED. THEY ARE FOR REFERENCE ONLY AND ARE NOT TO BE RELIED UPON.



BY	
DATE	
REVISION	



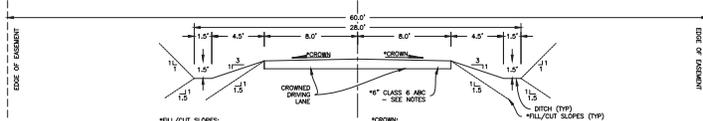
CROSS-SECTIONS
 8007 COUNTY ROAD 887,
 GUNNISON COUNTY, COLORADO

SHEET	
DRAWN BY:	JJS
CHECKED BY:	LAS
SCALE:	1"=20'
DATE:	2/20/2023
SHEET	7
OF	8
PROJ. NO.	2010-03-18

DETAILS AND NOTES

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH, R4E; OF THE N.M.P.M., COUNTY OF GUNNISON, STATE OF COLORADO.

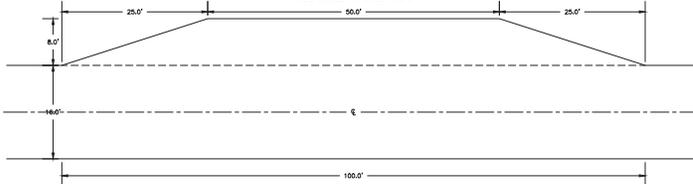
TYPICAL DITCHED PRIVATE DRIVE CROSS-SECTION



SPILL-OUT SLOPES:
THE SHOWN FILL AND CUT SLOPES ARE SHOWN AT THEIR STEEPEST ALLOWABLE SLOPES. IN FLATTENED AREAS, FILL SLOPES OF 3:1 ARE RECOMMENDED.
1:1 CUT SLOPES ARE ASSUMED STABLE IN SITUATIONS OF FOUND ROCK. CUT SLOPES SHOULD BE LAG BACK TO 3:1 IF NO ROCK IS FOUND.
STABILITY TO BE EVALUATED ON A CASE BY CASE BASIS. COMPACT FILL SLOPES.

ROADWAY:
LONGITUDINAL ROAD GRADE: 0-4%
4-7%
7-11%
CROWN GRADE INCREASES WITH LONGITUDINAL GRADE IN ORDER TO PROMOTE MORE POSITIVE DRAINAGE.
FOR NATIVE GRAVEL/SAND ROAD SURFACE, 2% CROWN IS MINIMAL.

TYPICAL TURNOUT



VOLUME SUMMARY

ITEM	DESCRIPTION	QUANTITY	UNIT
1	Excavation	100.00	cu yd
2	Fill	100.00	cu yd
3	Gravel	100.00	cu yd
4	Asphalt	100.00	sq ft
5	Concrete	100.00	sq ft
6	Other	100.00	sq ft

NOTE: THE CUT AND FILL FACTORS GIVEN HERE ARE 1.000. NO "FLUFF" FACTOR WAS USED. MITIGATE SPOILS BY FLATTENING FILL BANKS AS POSSIBLE.

ENGINEER'S NOTES:

1. IN ADDITION TO THE NOTES ON THE COVER SHEET, THE FOLLOWING DRIVEWAY CONSTRUCTION RELATED NOTES ARE GIVEN:
2. THE PROPOSED DRIVEWAY IS TO BE A MINIMUM OF 16' WIDE AND AT LEAST 18" WIDE AT THE COUNTY ROAD CONNECTION.
3. 2:1 BANK SLOPES FROM THE EDGE OF THE ROAD TO THE BOTTOM OF THE DITCH ARE REQUIRED.
4. PROVIDE STRUCTURAL STABILITY AND AN ALL WEATHER DRAINAGE SURFACE. THIS IS TO BE DETERMINED BY THE ENGINEER OF RECORD.
5. 2" OF CLASS #6 AGGREGATE BASE COURSE TO THE MINIMUM CROSS SECTION DEPTH FOR THE TOP WEARING SURFACE UNLESS THE NATIVE MATERIAL PROVIDES STRUCTURAL STABILITY AND AN ALL WEATHER DRAINAGE SURFACE.
6. RE-SEEDING DISTURBED AREAS ACCORDING TO APPENDIX D OF THE COUNTY ROAD STANDARDS IS REQUIRED. NAMELY: DRILL SEEDING OR HAND BROADCAST SEEDING WITH MULCHING BETWEEN OCTOBER 1 AND NOVEMBER 15 IS RECOMMENDED.
7. ROCK CHECK DAM STRUCTURES AS SHOWN ARE TO BE PLACED AT 810' AWAY ON SWITCH-BACKS AND 8100' ON THE BACKSIDE DOWNWARD HILL.

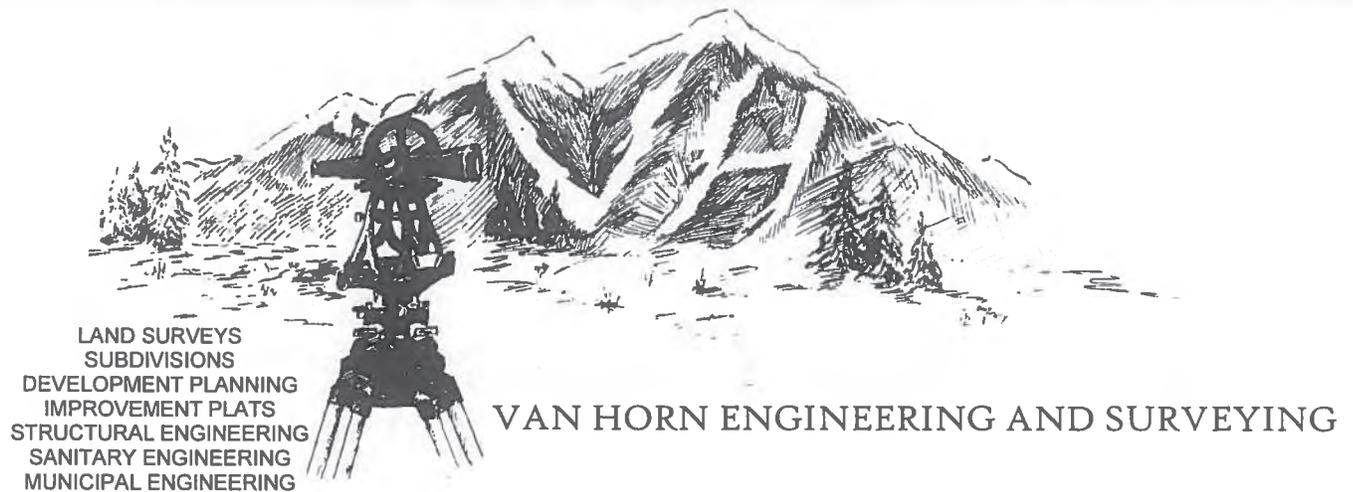
DATE	REVISION	BY



DETAILS AND NOTES
8007 COUNTY ROAD 887,
GUNNISON COUNTY, COLORADO

SHEET	08
PROJECT	8007 COUNTY ROAD 887, GUNNISON COUNTY, COLORADO
DRAWN BY:	JJS
CHECKED BY:	LAS
SCALE:	N/A
DATE:	2/20/2023
SHEET	08
OF	08
PROJ. NO.	2010-03-18

Exhibit B



LAND SURVEYS
SUBDIVISIONS
DEVELOPMENT PLANNING
IMPROVEMENT PLATS
STRUCTURAL ENGINEERING
SANITARY ENGINEERING
MUNICIPAL ENGINEERING

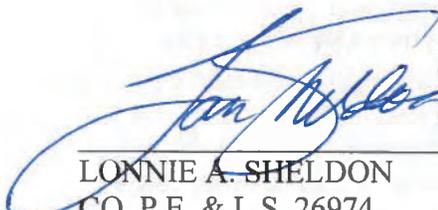
VAN HORN ENGINEERING AND SURVEYING

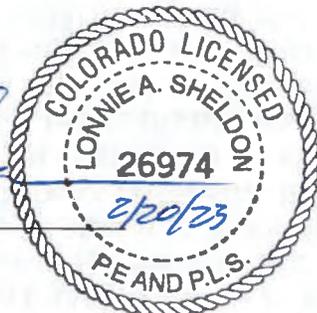
ACCESS EASEMENT LEGAL DESCRIPTION:

A 60 FOOT WIDE EASEMENT BEING FOR INGRESS AND EGRESS OVER THOSE LANDS IN THE SOUTHWEST QUARTER OF SECTION 11 AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN AS DESCRIBED IN DEED RECORDED AT RECEPTION NO. 566657 TO THOSE LANDS LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER, AND THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN AS DESCRIBED DEED RECORDED AT RECEPTION NO. 603277, SAID EASEMENT BEING 30 FEET EACH SIDE OF THE CENTERLINE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 11 AS MONUMENTED BY A 2" PIPE WITH 2 1/2" BRASS CAP DATED 1927; THENCE ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER NORTH 02°10'50" EAST A DISTANCE OF 659.14 FEET TO A POINT MONUMENTED BY A 2" ALUMINUM CAP LS 31158; THENCE CONTINUING ALONG SAID WEST LINE NORTH 02°11'26" EAST A DISTANCE OF 593.72 FEET TO THE TRUE POINT OF BEGINNING OF EASEMENT, SAID POINT BEING SOUTH 02°11'26" WEST 65.04 FEET FROM THE SOUTH 1/16 CORNER BETWEEN SECTIONS 10 AND 11, AS MONUMENTED BY A #6 REBAR WITH 3 1/4" ALUMINUM CAP LS 31158 DATED 2001; THENCE 78.74 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 352.29 FEET, A DELTA ANGLE OF 12°48'22", AND A CHORD WHICH BEARS SOUTH 58°15'01" EAST A DISTANCE OF 78.58 FEET; THENCE SOUTH 51°50'50" EAST A DISTANCE OF 191.46 FEET; THENCE 29.13 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 20°51'41", AND A CHORD WHICH BEARS SOUTH 41°24'59" EAST A DISTANCE OF 28.97 FEET; THENCE SOUTH 30°59'08" EAST A DISTANCE OF 51.84 FEET; THENCE 18.06 FEET ALONG A CURVE TO THE RIGHT, HAVING A

RADIUS OF 80.00 FEET, A DELTA ANGLE OF 12°56'13", AND A CHORD WHICH BEARS SOUTH 24°31'02" EAST A DISTANCE OF 18.03 FEET; THENCE SOUTH 18°02'55" EAST A DISTANCE OF 117.00 FEET; THENCE 14.58 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 10°26'25", AND A CHORD WHICH BEARS SOUTH 12°49'43" EAST A DISTANCE OF 14.56 FEET; THENCE SOUTH 07°36'30" EAST A DISTANCE OF 35.51 FEET; THENCE 14.40 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 10°18'40", AND A CHORD WHICH BEARS SOUTH 02°27'10" EAST A DISTANCE OF 14.38 FEET; THENCE SOUTH 02°42'10" WEST A DISTANCE OF 5.60 FEET; THENCE 126.04 FEET ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 90°16'05", AND A CHORD WHICH BEARS SOUTH 42°25'52" EAST A DISTANCE OF 113.40 FEET; THENCE S87°33'55"E A DISTANCE OF 191.09 FEET; THENCE S83°30'05"E A DISTANCE OF 349.71 FEET; THENCE S73°19'00"E A DISTANCE OF 225.51 FEET; THENCE 192.01 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 137°31'00", AND A CHORD WHICH BEARS SOUTH 04°33'30" EAST A DISTANCE OF 149.13 FEET; THENCE SOUTH 64°12'00" WEST A DISTANCE OF 25.31 FEET; THENCE 219.81 FEET ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 157°25'36", AND A CHORD WHICH BEARS SOUTH 14°30'48" EAST 156.91 FEET; THENCE NORTH 86°46'24" EAST A DISTANCE OF 9.18 FEET; THENCE 97.22 FEET MORE OR LESS ALONG A CURVE TO THE RIGHT TO A POINT BEING 30 FEET FROM THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, SAID CURVE HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 69°37'55", AND A CHORD WHICH BEARS SOUTH 58°24'39" EAST A DISTANCE OF 91.35 FEET; THENCE CONTINUING PARALLEL AND 30 FEET FROM SAID EAST LINE, SOUTH 01°41'17" WEST A DISTANCE OF 311.12 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 11, SAID POINT BEING SOUTH 88°22'33" EAST A DISTANCE OF 1300.66 FEET FROM THE SOUTHWEST CORNER OF THE ABOVE REFERENCED SECTION 11; THENCE PARALLEL WITH THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, S01°41'17"W A DISTANCE OF 37' MORE OR LESS TO THE NORTHERLY RIGHT-OF-WAY LINE FOR COUNTY ROAD 887 AND THE POINT OF TERMINUS OF SAID EASEMENT. THE SIDE LINES OF SAID EASEMENT TO BE PROLONGED OR SHORTENED AND SIDE CURVES TO BE CONTINUED OR SHORTENED TO MEET AT ANGLE POINTS AND TO TERMINATE AT PROPERTY LINES. SAID EASEMENT CONTAINING 140,446 SQUARE FEET MORE OR LESS AND BEING SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS OF WAY OF RECORD, COUNTY OF GUNNISON, STATE OF COLORADO.


LONNIE A. SHELDON
CO. P.E. & L.S. 26974





AMENDED STIPULATION
(Waunita/Leigh Marie)

This Amended Stipulation is entered into as of the 23 day of May, 2023.

1. Facts and Purposes. The following facts and purposes apply to this Amended Stipulation:

1.1 The parties to this Amended Stipulation are:

Leigh Marie LLC, a Colorado limited liability company
P.O. Box 25
Morrison, CO 80465
("Leigh Marie")

and

Waunita Hot Springs Ranch, Inc., a Colorado corporation
8807 County Road 887
Gunnison, CO 81230
("Waunita")

1.2 On May 8, 2013, in partial resolution of a case pending in District Court, Gunnison County Colorado as Civil Action No. 2009CV113 (the "Litigation"), Leigh Marie and Waunita, entered into a Stipulation Between Defendants and Intervenor (the "Original Stipulation") which was recorded on April 29, 2019, at Reception Nos. #659740.

1.3 Due to subsequent proceedings and agreements in the Litigation, Leigh Marie and Waunita have contemporaneously herewith filed a Joint Motion for Order Approving Termination of the Stipulations which, among other things, terminates the Original Stipulation, and a Quitclaim of Easement pursuant to Leigh Marie quitclaimed its interest in and to the Eastern Easement, as that term is defined in the Original Stipulation, to Waunita.

1.4 Certain terms of the Original Stipulation, however, remain significant to Leigh Marie and Waunita and the parties wish to preserve those terms.

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Leigh Marie and Waunita stipulate and agree as follows.

2. Pursuant to a Warranty Deed executed February 10, 1962 (the "Pringle Deed"), Carl E. Bolin and Janet Bolin (the "Bolins") conveyed to Rodrick F. Pringle, Jr. and Junelle Pringle (the "Pringles") a 60 acre tract of land legally described as the S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 49 North, Range 4 East of the N.M.P.M. in



Gunnison County, Colorado. The Pringle Deed was recorded on March 20, 1962 at Reception No. 251029.

3. Waunita is the successor in interest to the Pringles under the Pringle Deed. Waunita has acquired other lands in addition to those described in the Pringle Deed, and now owns a 213 acre tract of land in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 10, W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11, N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 15, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14, Township 49 North, Range 4 East of the N.M.P.M. (the "Waunita Property"). The Waunita Property is depicted on the Improvement Survey Plat attached as Exhibit A (the "Improvement Survey Plat"). The parties acknowledge and agree that the Improvement Survey Plat is an accurate depiction of the Waunita Property and the roads, improvements, and section lines shown thereon.

4. Pursuant to a Warranty Deed executed January 1, 1962 (the "Horvath Deed") the Bolins conveyed to Joseph G. Horvath and Julia G. Horvath (the "Horvaths") a 180 acre tract of land legally described as the S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 49 North, Range 4 East of the N.M.P.M.. The Horvath Deed was recorded on March 20, 1962 at Reception No. 251032.

5. Leigh Marie is the successor in interest to the Horvaths under the Horvath Deed, and now owns the 180 acre tract of land described therein (the "Leigh Marie Property").

6. The Leigh Marie Property lies adjacent to the western boundary of the eastern portion of the Waunita Property, and adjacent to the northern boundary of the western portion of the Waunita Property.

7. There are two easements over Waunita Property that provide access to the Leigh Marie Property.

8. The first, the "Western Easement," was created pursuant to a "Highway Easement Agreement" dated May 6, 1963 and recorded on June 19, 1963 at Reception No. 255352 pursuant to which John S. Waters and Lois S. Waters (the "Waters") granted a permanent 30 foot access easement to the Horvaths per the terms and for the consideration stated therein.

9. With respect to the Western Easement, Leigh Marie and Waunita stipulate and agree that:

a. The road depicted on the western portion of Waunita Property on the Improvement Survey Plat and labeled as the "Adjoiner's Driveway" is the road intended for use with respect to the Western Easement;

b. Although the "Adjoiner's Driveway" is located on the west side of Little Creek, and not the east side of Little Creek as described in the Highway Easement Agreement, both parties waive any right to move or require the other party to move that road;



c. Leigh Marie is a successor in interest to the rights and obligations of the Horvaths under the Highway Easement Agreement;

d. Waunita is the successor in interest to the rights and obligations of the Waters under the Highway Easement Agreement; and

e. There are no other documents or agreements affecting the rights or obligations of Defendants or Waunita with respect to the Western Easement.

10. The second, the "Eastern Easement," was created pursuant to the Horvath Deed pursuant to which the Bolins conveyed the Leigh Marie Property to the Horvaths "together with an easement over the present road running over and across the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11" in order to provide the grantees "with the right of ingress and egress to the lands above described from Gunnison County Road No. 328."

11. The Eastern Easement was terminated pursuant to the Quitclaim of Easement described in paragraph 1.3 above.

12. The property conveyed to the Pringles in the Pringle Deed was "subject to a certain Easement of right-of-way 50 feet in width over and across the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 11, said 50 foot Easement of right-of-way being adjacent to the easterly boundary line of said SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 11 as particularly described in that certain Easement dated November 1, 1961, and recorded in Book 356 at Page 51 of the Gunnison County records from Carl E. Bolin and Jane Bolin to Maxwell L. Fleetwood and Mary Clytia Fleetwood" (the "Fleetwood Easement"). The parties acknowledge and agree that:

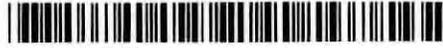
a. The location of the Fleetwood Easement is depicted on the Improvement Survey Plat at the far eastern edge of the Waunita Property, on the western edge of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11 from the Access Road;

b. The Fleetwood Easement expressly limits its use to allowing the Fleetwoods and their successors with access across the encumbered land for the purpose of watering their livestock;

c. The easement was executed and recorded immediately following the recordation of a deed from the Bolins to Maxwell L. Fleetwood and Mary Clytia Fleetwood (the "Fleetwoods"), conveying, inter alia, the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 (the "Fleetwood Tract").

d. Waunita is currently the owner of NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10.

e. Neither Leigh Marie nor Waunita is a successor-in-interest to the Fleetwood Easement; and



f. The Fleetwood Easement does not abut Leigh Marie Property at any point.

LEIGH MARIE, LLC,
a Colorado limited liability company

WAUNITA HOT SPRINGS RANCH, INC.,
a Colorado corporation

By: Scott Wagner, member

By: Ryan Pringle, President

State of Colorado)
)ss
County of _____)

State of Colorado)
)ss
County of Gunnison)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Scott Wagner as member of Leigh Marie, LLC, a Colorado limited liability company.

The foregoing instrument was acknowledged before me this 23 day of May, 2023, by Ryan Pringle as President of Waunita Hot Springs Ranch, Inc., a Colorado corporation.

Witness my hand and official seal.

Witness my hand and official seal.

Notary Public

Notary Public

My commission expires:

My commission expires: 7/30/2025

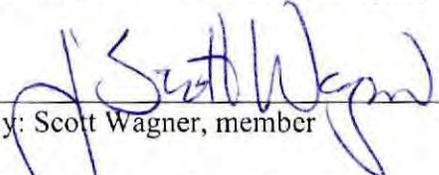




f. The Fleetwood Easement does not abut Leigh Marie Property at any point.

LEIGH MARIE, LLC,
a Colorado limited liability company

WAUNITA HOT SPRINGS RANCH, INC.,
a Colorado corporation


By: Scott Wagner, member
State of Colorado)
)ss
County of Larimer)

By: Ryan Pringle, President
State of Colorado)
)ss
County of Gunnison)

The foregoing instrument was acknowledged before me this 25 day of May, 2023, by Scott Wagner as member of Leigh Marie, LLC, a Colorado limited liability company.

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Ryan Pringle as President of Waunita Hot Springs Ranch, Inc., a Colorado corporation.

Witness my hand and official seal.

Witness my hand and official seal.


Notary Public

Notary Public

My commission expires: 07/23/2025

My commission expires:





EASEMENT AGREEMENT
(Waunita/Leigh Marie)

This Easement Agreement is entered into as of the 23 day of May, 2023.

1. **Facts and Purposes.** The following facts and purposes apply to this Easement Agreement:

1.1 The parties to this Easement Agreement are:

Waunita Hot Springs Ranch, Inc., a Colorado corporation
8807 County Road 887
Gunnison, CO 81230
("Waunita")

and

Leigh Marie LLC, a Colorado limited liability company
P.O. Box 25
Morrison, CO 80465
("Leigh Marie")

1.2 Waunita owns a 213 +/- acre tract of land located in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 10, W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11, N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 15, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14, Township 49 North, Range 4 East of the N.M.P.M., in Gunnison County, Colorado, (the "Waunita Parcel").

1.3 Leigh Marie owns a 180 +/- acre tract of land legally described as S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and the N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 49 North, Range 4 East of the N.M.P.M., in Gunnison County (the "Leigh Marie Parcel").

1.4 The Leigh Marie Property lies adjacent to the western boundary of the eastern portion of the Waunita Property, and adjacent to the northern boundary of the western portion of the Waunita Property.

1.5 In connection with the parties' efforts to resolve a consolidated lawsuit pending in the District Court, Gunnison County, Colorado, in Case Nos. 2009CV113, Waunita has agreed to convey to Leigh Marie and Leigh Marie has agreed to accept an easement for ingress and egress over the Waunita Parcel to provide access to the Leigh Marie Parcel upon the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Leigh Marie and Waunita agree as follows:

2. **Grant of Easement.** Waunita hereby grants to Leigh Marie, without warranty of title, a perpetual access and utility easement (the "Easement") over and across a 60-foot right-of-



way the centerline of which is set forth in Exhibit A to this Easement Agreement (the “Easement Area”).

3. **Use of Easement.** The Easement may be used by Leigh Marie and its successors and assigns and its members, officers, agents, contractors, employees, and invitees (collectively, the “Easement Users”) for ingress and egress and to provide utilities to the Leigh Marie Parcel subject to the following conditions:

3.1 Snow may be plowed from the road constructed as set forth below onto the Easement Area but not beyond.

3.2 Easement Users shall not park or store any vehicles, equipment, trailers, rock, materials, personal property, trash receptacles, or any items in the Easement Area.

3.3 Easement Users shall not operate any motor vehicle within the Easement Area in an unreasonably loud or offensive manner. For the purposes of this paragraph, “motor vehicle” means any vehicle designed for the transportation of person or property and propelled by an internal-combustion engine or other type of engine, and shall include without being limited to automobiles, trucks, motorcycles, minibikes, motor scooters, dirt bikes, dune buggies, trail bikes, all-terrain vehicles, go-carts or other vehicles not capable of being registered under law.

3.4 Leigh Marie may place signage at the entrance of the Easement identifying its property provided such sign complies with Gunnison County’s sign code without the necessity of a variance and does not include the name “Waunita Hot Springs.”

Leigh Marie shall be responsible for the conduct of the Easement Users.

4. **Nonexclusive Use.** Waunita may use the Easement Area for any purposes not inconsistent with the use and enjoyment of the rights granted to Leigh Marie herein.

5. **Construction of Road.** Leigh Marie may construct a road through the Easement Area subject to the following conditions:

5.1 The road shall be constructed substantially pursuant to engineering plans that were prepared by Van Horn Engineering and Surveying dated 2/20/23. Any changes to the plans or the Easement Area necessitated by governmental authority are subject to approval by Waunita, which approval will not be unreasonably withheld. Waunita specifically agrees to enlargement of the Easement Area needed for turnouts required by any governmental authority.

5.2 Leigh Marie shall be responsible for acquiring, complying with, and paying any and all costs and fees for all governmental permits required for the construction of the road. Waunita shall not oppose any application for a permit to build that is consistent with this Easement Agreement.



5.3 Leigh Marie shall be responsible for paying all fees and costs incurred in connection with the construction of the road and compliance with the conditions of this paragraph.

5.4 The center of the constructed road will be as close as practicably possible to the centerline of the Easement Area as set forth in Exhibit A.

5.5 Leigh Marie will remove the existing barbed wire fence that is partially within the Easement Area and replace it with a new fence along the eastern boundary of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11. The new fence shall be 4 feet high, constructed of 4 strands of barbed wire, and meet the specifications set forth in the Natural Resource Conservation Service Conservation Practice Specifications Fence, Code 382 or as otherwise required by applicable Gunnison County regulations. One wire gate shall be placed in the northeast corner of the fence.

5.6 Leigh Marie will construct and maintain cattle guards at the entry into and exit of the road onto the Waunita Parcel. Other than the cattle guards, neither party shall place or caused to be placed any gate, fence, or other obstruction in the Easement.

5.7 All road construction shall be performed by Woodlake Construction Management, L.L.C. (“Woodlake”). If Woodlake will not perform the work for any reason, then any replacement contractor will be subject to Waunita’s approval, which will not be unreasonably withheld. As a condition to such approval, Waunita may require the contractor to waive any and all mechanic’s lien claims on Waunita’s property. Waunita and Woodlake, or any replacement contractor, will work to develop a schedule of work that will have the least impact on Waunita’s operations yet provide for efficient completion of the project.

5.8 The road project will be overseen by Van Horn Engineering and Surveying (“Van Horn”). If Van Horn will not oversee the project for any reason, then any replacement engineer will be subject to Waunita’s approval, which will not be unreasonably withheld.

5.9 At the conclusion of the project, Van Horn, or the replacement engineer, shall provide a certification to Waunita that the project as built substantially complies with the approved plans.

5.10 Leigh Marie shall hold harmless and indemnify Waunita from all claims (including all costs, expenses, liabilities and reasonable attorneys' fees) arising from any failure to comply with the conditions in this paragraph 5 other than those attributable to Waunita itself.

6. **Maintenance.** Leigh Marie shall be responsible to maintain the road and Easement Area to the extent that its use of the road causes any damage to the Easement Area at its sole cost and expense. Waunita may, but shall have no obligation to, perform any maintenance on the road or Easement Area. Notwithstanding the foregoing, if Waunita’s actions are the



primary cause of a needed item of repair or maintenance to the road or Easement Area, then Waunita shall make said repairs or maintenance at its cost.

7. **Indemnity.** Leigh Marie shall hold harmless and indemnify Waunita and its principals, officers, agents, employees, contractors, guests, and invitees (jointly, the “Indemnified Parties”) from all claims (including all costs, expenses, liabilities and reasonable attorneys' fees) arising or reasonably alleged to arise from any act or omission by the Easement Users for any injury or damage to any person, or the property of any person, attributable to the use of the Easement granted herein unless the same is caused by an Indemnified Party. Leigh Marie agrees that the Easement Users’ use and occupancy of the Easement granted herein is at their own risk and hereby releases the Indemnified Parties from any claims for any damage or injury to the full extent permitted by law.

8. **Binding Effect: Covenant to Run with Land.** The terms and conditions of this Easement Agreement shall inure to the benefit of and be binding upon the owners of the Leigh Marie Parcel and the Waunita Parcel and their successors and assigns. This Easement Agreement shall be recorded in the records of the Gunnison County Clerk and Recorder’s office and shall run with the lands described herein.

9. **Amendment; Termination.** This Easement Agreement may be amended, supplemented or terminated by a written instrument executed by all owners of record of the property subject hereto, together with the written consent of all persons (if any) with a beneficial interest in any property subject hereto under a deed of trust or mortgage duly recorded with the Clerk and Recorder for Gunnison County.

10. **Arbitration of Disputes.** If Waunita declines to approve any matter for which its approval is requested in relation to this Agreement within 30 days after such request, then the dispute will be resolved by arbitration. Specifically, each party will appoint a licensed engineer and those engineers will meet to try to resolve the matter. If the engineers agree, then their agreement shall be binding on the parties. If the engineers do not agree, then the engineers will appoint a third licensed engineer who will finally decide which party’s position to follow. The resolution through this process will be binding. Each party shall be responsible for the costs of any engineer engaged by that party and shall pay 50% of the cost of any third engineer.

11. **Severability.** If any provision of this Easement Agreement shall be held invalid, illegal or unenforceable by a court of competent jurisdiction, it shall not affect or impair the validity, legality or enforce ability of the Easement Agreement or of any other provision hereof, and there shall be substituted for the affected provision, a valid and enforceable provision as similar as possible to the affected provisions.

12. **Attorneys’ Fees.** If any legal action is commenced or maintained in court or administrative tribunal by any party to this Easement Agreement as to the interpretation, enforcement, construction or the determination of the rights and duties of the parties to this Easement Agreement or any document provided herein, the prevailing party in any such action shall be awarded its reasonable attorneys' fees together with all reasonable costs and expenses incurred in such action.



13. **Applicable Law.** This Easement Agreement shall be interpreted, construed and governed by the laws of the State of Colorado.

14. **Jurisdiction and Venue.** Other than disputes for which binding arbitration is required as provided above, jurisdiction and venue of any action as the interpretation, enforcement or the determination of the rights and duties of the parties to this Easement Agreement shall be the District Court, Gunnison County, Colorado. Each party submits to the personal jurisdiction of such court and waives any and all rights to object to the jurisdiction of such court as to any action pertaining to this Easement Agreement.

15. **Execution of Documents.** This Easement Agreement may be executed in counterparts, each of which, taken together with the others, shall constitute the original.

16. **Warranty of Capacity to Grant Easement.** Each person executing this Easement Agreement warrants that he/she is such person and that he/she is fully competent and legally empowered to execute and deliver this Easement Agreement on behalf of the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the date set forth above.

LEIGH MARIE, LLC,
a Colorado limited liability company

WAUNITA HOT SPRINGS RANCH, INC.,
a Colorado corporation

By: _____
Scott Wagner, Member

By: 
Ryan Pringle, President

State of Colorado)
)ss
County of _____)

State of Colorado)
)ss
County of Gunnison)

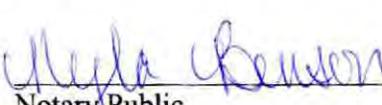
The foregoing agreement was acknowledged before me this _____ day of _____, 2023, by Scott Wagner as Member of Leigh Marie, LLC, a Colorado limited liability company.

The foregoing agreement was acknowledged before me this 23 day of May, 2023, by Ryan Pringle as President of Waunita Hot Springs Ranch, Inc., a Colorado corporation.

Witness my hand and official seal.

Witness my hand and official seal.

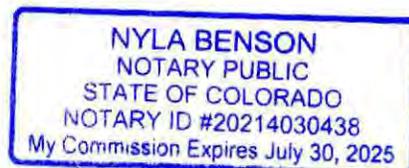
Notary Public



Notary Public

My commission expires:

My commission expires 7/30/2025





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LEIGH MARIE, LLC,
a Colorado limited liability company

WAUNITA HOT SPRINGS RANCH, INC.,
a Colorado corporation

By: Scott Wagner
Scott Wagner, Member

By: _____
Ryan Pringle, President

State of Colorado)
)ss
County of Larimer)

State of Colorado)
)ss
County of Gunnison)

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Witness my hand and official seal.

Witness my hand and official seal.

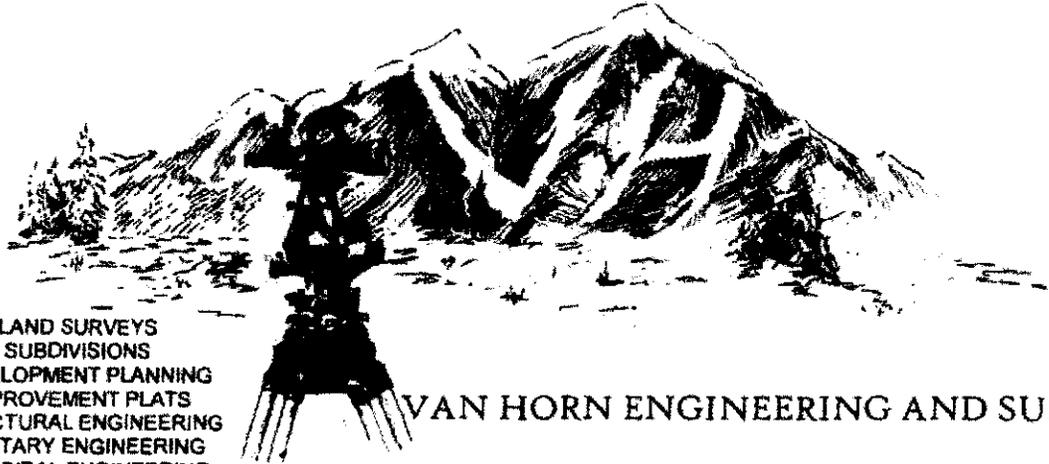
Chauntel McGee
Notary Public

Notary Public

My commission expires: 07/23/2025

My commission expires





LAND SURVEYS
SUBDIVISIONS
DEVELOPMENT PLANNING
IMPROVEMENT PLATS
STRUCTURAL ENGINEERING
SANITARY ENGINEERING
MUNICIPAL ENGINEERING

VAN HORN ENGINEERING AND SURVEYING

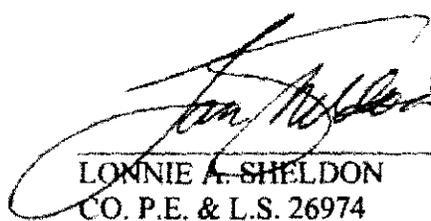
ACCESS EASEMENT LEGAL DESCRIPTION:

A 60 FOOT WIDE EASEMENT BEING FOR INGRESS AND EGRESS OVER THOSE LANDS IN THE SOUTHWEST QUARTER OF SECTION 11 AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN AS DESCRIBED IN DEED RECORDED AT RECEPTION NO. 566657 TO THOSE LANDS LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER, AND THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN AS DESCRIBED DEED RECORDED AT RECEPTION NO. 603277, SAID EASEMENT BEING 30 FEET EACH SIDE OF THE CENTERLINE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 11 AS MONUMENTED BY A 2" PIPE WITH 2 1/2" BRASS CAP DATED 1927; THENCE ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER NORTH 02°10'50" EAST A DISTANCE OF 659.14 FEET TO A POINT MONUMENTED BY A 2" ALUMINUM CAP LS 31158; THENCE CONTINUING ALONG SAID WEST LINE NORTH 02°11'26" EAST A DISTANCE OF 593.72 FEET TO THE TRUE POINT OF BEGINNING OF EASEMENT, SAID POINT BEING SOUTH 02°11'26" WEST 65.04 FEET FROM THE SOUTH 1/16 CORNER BETWEEN SECTIONS 10 AND 11, AS MONUMENTED BY A #6 REBAR WITH 3 1/4" ALUMINUM CAP LS 31158 DATED 2001; THENCE 78.74 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 352.29 FEET, A DELTA ANGLE OF 12°48'22", AND A CHORD WHICH BEARS SOUTH 58°15'01" EAST A DISTANCE OF 78.58 FEET; THENCE SOUTH 51°50'50" EAST A DISTANCE OF 191.46 FEET; THENCE 29.13 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 20°51'41", AND A CHORD WHICH BEARS SOUTH 41°24'59" EAST A DISTANCE OF 28.97 FEET; THENCE SOUTH 30°59'08" EAST A DISTANCE OF 51.84 FEET; THENCE 18.06 FEET ALONG A CURVE TO THE RIGHT, HAVING A



RADIUS OF 80.00 FEET, A DELTA ANGLE OF 12°56'13", AND A CHORD WHICH BEARS SOUTH 24°31'02" EAST A DISTANCE OF 18.03 FEET; THENCE SOUTH 18°02'55" EAST A DISTANCE OF 117.00 FEET; THENCE 14.58 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 10°26'25", AND A CHORD WHICH BEARS SOUTH 12°49'43" EAST A DISTANCE OF 14.56 FEET; THENCE SOUTH 07°36'30" EAST A DISTANCE OF 35.51 FEET; THENCE 14.40 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 10°18'40", AND A CHORD WHICH BEARS SOUTH 02°27'10" EAST A DISTANCE OF 14.38 FEET; THENCE SOUTH 02°42'10" WEST A DISTANCE OF 5.60 FEET; THENCE 126.04 FEET ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 90°16'05", AND A CHORD WHICH BEARS SOUTH 42°25'52" EAST A DISTANCE OF 113.40 FEET; THENCE S87°33'55"E A DISTANCE OF 191.09 FEET; THENCE S83°30'05"E A DISTANCE OF 349.71 FEET; THENCE S73°19'00"E A DISTANCE OF 225.51 FEET; THENCE 192.01 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 137°31'00", AND A CHORD WHICH BEARS SOUTH 04°33'30" EAST A DISTANCE OF 149.13 FEET; THENCE SOUTH 64°12'00" WEST A DISTANCE OF 25.31 FEET; THENCE 219.81 FEET ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 157°25'36", AND A CHORD WHICH BEARS SOUTH 14°30'48" EAST 156.91 FEET; THENCE NORTH 86°46'24" EAST A DISTANCE OF 9.18 FEET; THENCE 97.22 FEET MORE OR LESS ALONG A CURVE TO THE RIGHT TO A POINT BEING 30 FEET FROM THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, SAID CURVE HAVING A RADIUS OF 80.00 FEET, A DELTA ANGLE OF 69°37'55", AND A CHORD WHICH BEARS SOUTH 58°24'39" EAST A DISTANCE OF 91.35 FEET; THENCE CONTINUING PARALLEL AND 30 FEET FROM SAID EAST LINE, SOUTH 01°41'17" WEST A DISTANCE OF 311.12 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 11, SAID POINT BEING SOUTH 88°22'33" EAST A DISTANCE OF 1300.66 FEET FROM THE SOUTHWEST CORNER OF THE ABOVE REFERENCED SECTION 11; THENCE PARALLEL WITH THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, S01°41'17"W A DISTANCE OF 37' MORE OR LESS TO THE NORTHERLY RIGHT-OF-WAY LINE FOR COUNTY ROAD 887 AND THE POINT OF TERMINUS OF SAID EASEMENT. THE SIDE LINES OF SAID EASEMENT TO BE PROLONGED OR SHORTENED AND SIDE CURVES TO BE CONTINUED OR SHORTENED TO MEET AT ANGLE POINTS AND TO TERMINATE AT PROPERTY LINES. SAID EASEMENT CONTAINING 140,446 SQUARE FEET MORE OR LESS AND BEING SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS OF WAY OF RECORD, COUNTY OF GUNNISON, STATE OF COLORADO.

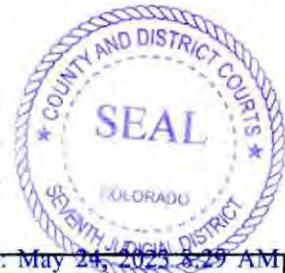

LONNIE A. SHELDON
CO. P.E. & L.S. 26974



CERTIFIED TO BE A FULL, TRUE
AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY

DATED: MAY 24, 2023

CLERK: [Signature]



DISTRICT COURT, GUNNISON COUNTY,
STATE OF COLORADO
200 East Virginia, Gunnison, CO 81230
970-641-3500

Plaintiff:
THE BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF GUNNISON, COLORADO, a
political subdivision of the State of Colorado
v.
Defendants:
Leigh Marie, LLC a Colorado limited liability company,
and Scott Wagner
v.
Intervenor:
Waunita Hot Springs Ranch, Inc. a Colorado
Corporation

DATE FILED: May 24, 2023 8:29 AM
CASE NUMBER: 2009CV113

COURT USE ONLY

Div.: Ctrm.:

Case No. 2009CV113

ORDER APPROVING TERMINATION OF STIPULATIONS

This matter having come before the Court on the parties' Joint Motion for Order Approving Termination of Stipulations, and the Court having duly considered the same, hereby finds and orders as follows:

1. Civil Action No. 2009CV113 was previously resolved with two stipulations - a May 8, 2013, Stipulation between Defendants and Waunita and a December 11, 2014, Stipulation for Dismissal Without Prejudice (collectively, the "Stipulations").
2. The 2013 Stipulation was approved by and made an order of the Court on May 14, 2013. The 2013 Stipulation and Order approving the same were recorded with the Gunnison County Clerk and Recorder on April 29, 2019, at Reception Nos. #659740 and #659741, respectively.
3. The 2014 Stipulation was approved by and made an order of the Court on December 15, 2014. The 2014 Stipulation and Order approving the same were recorded with the Gunnison County Clerk and Recorder on April 29, 2019 at Reception Nos. #659742 and #659743, respectively.
4. Litigation between the parties further ensued in Civil Action Nos. 2019CV30028, and 2021CV30005, which actions were consolidated into this case.

Gunnison County, CO
6/27/2023 1:08:56 PM
274

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Page 1 of 2
R 18.00 D 0.00



5. The Parties have reached a Settlement Agreement regarding all of the issues in this consolidated case.

6. As part of the Settlement Agreement, the parties have agreed to terminate the Stipulations.

Now therefore, having been apprised of the parties' agreement to terminate the Stipulations, the Court hereby acknowledges and approves the termination and orders that such Stipulations shall no longer be enforceable orders of this Court.

Dated this 23 day of May, 2023.



District Court Judge

Gunnison County, CO
6/27/2023 1:08:56 PM
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R 18.00 D 0.00





Exhibit D

RELEASE OF NOTICES OF LIS PENDENS

This Release of Notices of Lis Pendens is made with respect to the following facts:

1. On May 7, 2019, Leigh Marie, L.L.C., a Colorado limited liability company ("Leigh Marie"), recorded a Notice of Commencement of Action (Lis Pendens) ("Notice #1") with the Gunnison County Clerk and Recorder at Reception No. 659899 with respect to Civil Action No. 19-cv-00809 -KLM pending before the United States District Court for the District of Colorado.
2. The Board of County Commissioners of the County of Gunnison, Colorado ("Gunnison County") and Waunita Hot Springs Ranch, Inc., a Colorado corporation ("Waunita"), were Defendants in Civil Action No. 19-cv-00809 -KLM. Waunita is and was the owner of the real property described in Notice #1.
3. Civil Action No. 19-cv-00809 -KLM was dismissed by the U.S. District Court pursuant to an Order dated March 17, 2019 [Doc # 35]. No appeal was taken from that Order.
4. On March 2, 2021, Leigh Marie recorded a Notice of Lis Pendens ("Notice #2") with the Gunnison County Clerk and Recorder at Reception No. 673947 with respect to Civil Action No. 2021CV30005 pending before the Gunnison County District Court.
5. Gunnison County and Waunita were Defendants in Civil Action No. 2021CV30005. Waunita is and was the owner of the real property described in Notice #2.
6. On October 14, 2021, the Gunnison County District Court entered an order consolidating Civil Action No. 2021CV30005 into Civil Action Nos. 2019CV30028 and Civil Action No. 2009CV113, also pending before the Gunnison County District Court (the "Consolidated Litigation").
7. Leigh Marie, Gunnison County, and Waunita have entered into a Settlement Agreement in the Consolidated Litigation resolving all issues among them.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Leigh Marie hereby releases, forever discharges, and disclaims any interest in and to the real property described in Notice #1 and Notice #2, provided, however, that nothing herein shall be deemed to release, discharge or disclaim any interests (i) in the easement created pursuant to a "Highway Easement Agreement" dated May 6, 1963 and recorded on June 19, 1963 at Reception No. 255352, or (ii) acquired by Leigh Marie subsequent hereto pursuant to the Settlement Agreement described in paragraph 7 above.

Executed this 25 day of May 2023.

Leigh Marie, L.L.C. a Colorado limited liability company

By: _____

Scott Wagner, Member



STATE OF COLORADO)
County of Laimer) ss.
~~Gunnison~~)

The foregoing instrument was acknowledged before me this 25 day of May 2023 by Scott Wagner as Member of Leigh Marie, L.L.C. a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 07/23/2025

**CHAUNTEL MCGEE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214029439
MY COMMISSION EXPIRES 07/23/2025**

Chauntel McGee
Notary Public

Fee: \$250.00
Date Paid: 2/10/23
Cash/CO/Check: 2268
Received By: DAF

GUNNISON COUNTY PUBLIC WORKS DEPARTMENT
195 Basin Park Drive, Gunnison, CO 81230
(970) 641-0044

Permit # AP-23-00042

ACCESS PERMIT APPLICATION

WAWNITA HOT SPRINGS AND LEIGH MARIE (property owner) requests permission and authority from the Gunnison County Public Works Department to construct an access connecting to CR 887 (road name), in Gunnison County, adjacent to his/her property located on the NORTH side of the road, with a physical address of 7777 CR 887 for the purpose of obtaining access to LEIGH MARIE PROPERTY (residence) vacant land, etc.)
Legal Address: _____

- The Applicant binds and obligates themselves to construct and maintain the access in accordance with the provisions, specifications, and conditions enumerated below on this application and in the Gunnison County Standard Specifications for New Road and Bridge Construction.
1. The Applicant represents all parties in interest and affirms that the access to be constructed by him/her is for the bona fide purpose of securing access to his/her property and not for any other purpose.
 2. The Applicant shall furnish all labor and materials, perform all work, and pay all costs in connection with the construction of the access and its appurtenances.
 3. All work shall be completed within one year of the permit date. Any extension must be requested in writing prior to the expiration date of the original permit.
 4. The type of construction shall be designated and/or approved by the Gunnison County Public Works Department and all materials used shall be of satisfactory quality and subject to inspection and approval of the Gunnison County Public Works Department.
 5. The traveling public shall be protected during the installation with proper warning signs and signals and the Gunnison County Public Works Department and its duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.
 6. The Applicant shall assume responsibility for the removal and storage of snow, ice, or sleet on any portion of the access even if deposited on the driveway in the course of snow removal operations on the right-of-way.
 7. In the event it becomes necessary to remove any right-of-way fence, the posts on either side of the entrance shall be securely braced before the fence is cut to prevent any slacking of the remaining fence. Any removed materials shall be turned over to the Gunnison County Public Works Department if directed.
 8. No revisions or additions shall be made to the access or its appurtenances without the written permission of the Gunnison County Public Works Department.
 9. Provisions and specifications outlined herein shall apply on all roads in Gunnison County under the jurisdiction of the Gunnison County Standard Specifications for New Road and Bridge Construction.
 10. Approval of this permit does not guarantee approval of any other permits required by Gunnison County.
 11. Individual accesses may be subject to additional specifications or standards to meet conditions of the Gunnison County Land Use Resolution. Such special conditions will be attached to the approved permit if applicable.
 12. If the access is off of a State of Colorado highway the applicant must obtain an access permit from the State and provide a copy of that approved permit with this completed Access Permit Application.
 13. The Applicant agrees that applicant shall pay Gunnison County's costs and attorney's fees for enforcement of the requirements of this permit.
 14. The Applicant is solely responsible for obtaining and demonstrating legal right to construct the access.

2 COPIES OF THE SITE PLAN (One each of 24X36 and 11X17) MUST ACCOMPANY THIS PERMIT.

In signing this application and upon receiving Gunnison County Public Works Department authorization and permission to install the access described herein, the Applicant signifies that he/she has read, understands and accepts the foregoing provisions and conditions and agrees to construct the access in accordance with the accompanying site plan reviewed and approved by the Gunnison County Public Works Department as well as any special conditions placed on the project.

- A. Any damage caused to the road right-of-way will be the responsibility of the land owner to repair to County standards or pay for the cost of damages to be repaired. Damage must be repaired before a Certificate of Occupancy is issued. (initial)
- B. Access Permit Applications may be submitted between April 1st and November 15th of each year. Permits submitted outside of those dates may be reviewed at the discretion of the Public Works Director or designated staff. (initial)
- C. A final inspection of the completed driveway is required. It is the responsibility of the applicant to schedule the final driveway inspection by contacting Gunnison County Public Works Department at 970-641-0044. The entire driveway must be completed and visible at the time of the final inspection. If the driveway fails final inspections there is a \$500 re-inspection fee. THERE WILL BE NO FINAL INSPECTIONS IN THE WINTER OR WHEN WEATHER PROHIBITS FULL VIEW OF THE DRIVEWAY AND THE SURFACE IS FROZEN. (initial)
- D. Access will be staked at the center of the access at the intersection with the road that the access is coming off of and for every 50 feet thereafter up to the end point of the access. Name used on this application should be on the first stake. (initial)

Signed: Scott W. Wagner
Signature of Applicant or Representative

Mailing Address: ?

Printed Name: Scott Wagner

PO Box 25 MORRISON, CO 80465
303-944-4600
Telephone Number

Contractor's Email Address: - Permittee = adjacent land owner using access = scott@waterscapesinc.com

Permit granted 7/3/23 (date), subject to the provisions, specifications and conditions stipulated herein.

Access Inspector _____ Assistant County Manager for Public Works _____

THIS PERMIT SHALL BE MADE AVAILABLE AT THE SITE WHERE AND WHEN WORK IS BEING DONE.
Revised 11/14/22

Access Permit Submittal Checklist

Waunite Hot Springs Ranch

- ___ Completed Access Permit Application Form
 - ___ Property Owner (applicant) name; ← Pringle? Wagner?
 - ___ Name of road access is connecting to; ← 887
 - ___ Which side of the road accessing is being made from (north, south, east, west);
 - ___ Physical address of project; 7777 County Road 887
 - ___ What are you building the access from (residence, business, etc.);
 - ___ Signature;
 - ___ Contact information; ← 2 VHE - for neighbor (leigh marie property)
 - ___ Fee payment.

___ Site Plan, drawn to scale, must include:

- ✓ Lot boundaries;
- ✓ Location of any existing structures, accesses, utilities, etc.;
- ✓ Location of new structures, accesses, utilities, etc.;
- ✓ Width and length of access;
- ✓ Intervisible turnouts and emergency services turn arounds if required;
- ✓ Size and location of culverts if required;
- ✓ Easements;
- N/A Landscaping;
- ✓ Everything labeled;

All notes are from Scott W. not county staff.

Gunnison County Public Works Department reserves the right to request engineered drawings.

- ✓ Location Map
 - Directional map or written word describing how to get from Gunnison to the project property.

N/A Approval letter from Crested Butte Fire Protection District if the project is located within their jurisdiction.

? ATTACH MAPS/Statement Approval letter from the Wildlife Coordinator if the project is located within the sage grouse occupied habitat boundary.

ESMT on separate document Copies of easements/permits/approvals if needed to access property; including crossing private land owned by others, accessing property off of a state highway or accessing property off of a Forest Service or BLM road that is not open to motorized traffic on the travel management maps.

X Waiver of Standards request if required. Springy turnouts - plan note # 14

Need on separate document Completed Reclamation permit if the project is within the sage grouse occupied habitat boundary and required by the wildlife coordinator OR if the square footage of disturbance for the project is at or above 10,000 square feet.

Is a geological hazard survey required by Community Development: ___ yes, X no. easily met - don't flush so

Plans X Other
Access should be staked at the center of the access at the intersection with the road that the access is coming off of and for every 50 feet thereafter up to the end point of the access;

Need Name used on the access permit application should be written on the stake at the beginning of the access;

N/A Property corners adjacent to roadside should be marked.

N/A Previously non-permitted access may require a permit to meet current standards.

ok Final inspections will not be made if the access is not entirely visible (ie: during winter conditions)

N/A

Intersecting public and private roads shall be located opposite each other where possible or be offset by a minimum of one hundred twenty five (125) feet.

✓

Driveways shall have an all weather driving surface. In the case of a native material road, the driveway shall match the existing surface.

✓

Driveways shall have a minimum surface width of 18 feet at the edge of pavement or road surface and taper to 16 feet at a distance 6 feet from the edge of the road and maintain this surface width to the end of the driveway.

✓

Driveways which are in excess of 600 feet in length and are single lane shall be required to have standard inter-visible turnouts. (See Appendix D).

ASKING FOR INTERVISIBLE AND 700' APART

N/A

Driveways at the End of the Road – Driveways 150' or longer in length that end at a private residence, a business or structure larger than 600 square feet, shall have a cul-de-sac, loop design or a "Y" or "T" turn around adequate to accommodate emergency service vehicles. "T" turnarounds shall be a minimum of 20' from any flammable structure. All turn around areas shall be kept open and clear, and shall have sufficient area for snow storage outside of road prism, and shall be plowed by the owner in the winter. (See Appendix E).

N/A

Driveway designs that allow for backing onto or off of a county road shall be evaluated on a case-by-case basis. Lot size, proposed house location and traffic volume and speed can be used as determining factors. The Director of Public Works will make the final determination.

✓

Any driveway permit application that is over 250 feet in length and has the potential to be used for a road for future development may be referred to the planning office for proper review.

to COMMERCIAL LOT LINE

✓

Driveways shall be constructed to meet all Standards and Specifications from the edge of the County road, or public road, or private road under County jurisdiction, to the building footprint.

✓

Driveways on steep uphill or downhill will require a flat landing area for a minimum of 30 feet before the intersection with the edge of the road.

N/A

A temporary access road as defined herein shall be required to meet all Standards and Specifications only from the edge of the road to the property line.

✓

Adequate vehicle parking must be provided on the private parcel. No parking along the road will be permitted.

✓

Any overhead entry structures shall be at least 13' 6" high, measured from the road surface.

Table 4-5 - Cut and Fill Slopes:

Height	Cut Slopes	Fill Slopes
0-5 feet	3:1	2:1
5-10 feet	2:1	1 1/2:1
10-15 feet	1 1/2:1	1 1/2:1
Above 15 feet	1:1	1 1/2:1

*SEE
X-SECTIONS
AND NOTES*

Table 4-6 - Summary of Driveway Design Elements:

TYPE OF ACCESS (driveway)	# OF LANES	LANE WIDTH
1. <u>Residential</u>	<u>1</u>	<u>16 feet</u>
2. Agricultural	1	16 feet
3. Commercial	2	11 feet
4. Industrial	2	11 feet

Table 4-7 - Intersection Sight Distance

*Vehicle expected to enter or cross highway

Sight Distance is given in feet per 10 mph of posted speed limit

	2 Lane	4 Lane
Passenger Car	100	120
Single Unit Truck	130	150
Multi-Unit Trucks	170	200

Oh

RECLAMATION PERMIT APPLICATION

WEED COMMISSION P.O. BOX 915 GUNNISON, CO 81230 (970) 641-4393	PUBLIC WORKS DEPT. 195 BASIN PARK DRIVE GUNNISON, CO 81230 (970) 641-0044
---	--

Permit No. RP-23-00009

OWNER NAME: LEIGH MARIE LLC

OWNER ADDRESS: PO BOX 25 MORRISON CO 80465

OWNER TELEPHONE NUMBER: 303-944-9600

CONTRACTOR'S NAME/PHONE #:

PHYSICAL/LEGAL ADDRESS OF PROPERTY BEING PERMITTED: 7777 COUNTY ROAD 887

TYPE OF WORK (check all that apply for your project)

- Road/Access - total square feet of disturbance minus the driving surface: 78,400 - 41,200 = 37,200 SF
- New Home - total square feet of disturbance minus footprint of the house: N/A
- Utilities (water, sewer, septic, leach field, phone, cable, etc.) - total square feet: N/A and total square feet: N/A
- Other - Description _____

TOTAL SQUARE FEET OF DISTURBANCE: _____

**TWO (2) COPIES OF THE SITE PLAN (One each of 24X36 and 11X17);
ONE (1) PLAT MAP AND ONE (1) LOCATION MAP MUST ACCOMPANY THIS PERMIT**

The applicant shall furnish all labor and materials, perform all work, and pay all costs in connection with the requirements of this permit. The permittee agrees that permittee shall pay Gunnison County's costs and attorney's fees for enforcement of the requirements of this permit. The permittee shall have the vegetation established and growing within two years (730 days) of the issue date of the Reclamation Permit. Reclamation work will be completed within _____ days of the issue date of the permit.

Comments: _____

SAGE GROUSE OCCUPIED HABITAT: THIS PROPERTY IS IN (TIER 1: TIER 2:) / NOT IN UNSURE

Fee: This application must be accompanied by a \$250.00 non-refundable fee.

Financial Security Deposit: If the total square footage of disturbance for the project is 10,000 square feet or greater the applicant must submit a financial security deposit to be held as a guarantee that the applicant performs reclamation to the satisfaction of Gunnison County. The deposit may be held for at least two years from the date the permit is issued and will be released only if the applicant performs reclamation to the satisfaction of Gunnison County. If the applicant requires an extension, it must be approved by the County Weed Coordinator and the original deposit shall be held until such time the project has been reclaimed to the satisfaction of Gunnison County. This deposit does not limit or release the applicant's obligation to control noxious weeds or to reclaim the site.

The financial security deposit amount is based on the following schedule:

Initial 10,000 square feet	\$ 500.00
Each additional 1,000 square feet	\$ 100.00

Total Deposit: \$4,220 3,220
 $500 + 37.2(100) = 4220$

Permit granted this _____ day of _____, 20____, subject to the provisions, specifications and conditions stipulated herein. The U.S. Fish and Wildlife Service has determined effective December 22, 2014 threatened species status, under the Endangered Species Act of 1973 as amended, for the Gunnison Sage-grouse. Gunnison County approval of this County permit is not U.S. Fish and Wildlife Service approval of any activity described or authorized by this County permit. Gunnison County is not and does not act as your representative with regard to consultation with the U.S. Fish and Wildlife Service or performance of U. S. Fish and Wildlife Service requirements.

Applicant or Applicant's Representative: [Signature] 2/21/23

Signature _____ Date _____

Application and Reclamation Plan Approved: _____

Weed Coordinator _____ Date _____

<u>Application Fee</u>	<u>Security Deposit</u>	<u>Final Inspection</u>	<u>Security Released</u>
Amount Paid: <u>2500</u>	Amount Paid: <u>\$3220</u>	Date Inspected: _____	Date Vouchered: _____
Date Paid: <u>2/22/23</u>	Date Paid: <u>2/22/23</u>	Inspected By: _____	By Whom: _____
Cash/Check/CC: <u>2268</u>	Cash/Check/CC: <u>2272</u>	Approved By: _____	To Whom: _____
Received By: <u>[Signature]</u>	Received By: <u>[Signature]</u>	Date Approved: _____	Address: _____

Reclamation Permit Application

EXHIBIT A

Legal Description of Property Being Permitted: 180 ACRES IN SECTION
10, TOWNSHIP 49 N, RANGE 4 E

Comments: NEW DRIVEWAY PROPOSED ACROSS A PORTION OF
NEIGHBORING PROPERTY (8007 CR 887)

*****PLEASE ATTACH A LOCATION MAP FOR PARCEL*****

EXHIBIT B

Description of Site (Including Slopes, Soil Type, Current Vegetation): SEE ATTACHED
INFO FROM NRCS. SAGEBRUSH, THINGRASSES, AREA
50%+ OF AREA = TYPE TELLURA (#142) OF TREES
30% OF AREA = TYPE CRYOLLS - CRYAQUOLLS (#108)
12% OF AREA = TYPE QUANDER (#133)

Comments: GRAVELLY CLAY LOAM (#142) 5-25%
COBBLY LOAM (#108) 0-15%, GRAVELLY SANDY CLAY LOAM (#133)
15-45%

Reclamation Permit Application

EXHIBIT C

Reclamation Plan: All disturbed areas shall be reclaimed with **two (2) years** of the issue date of the permit. Disturbed areas shall include but not be limited to: utility lines, septic and leach field, driveway, (excluding the road surface), and the building envelope (excluding the footprint(s) of structures).

As much as reasonably possible, disturbed areas are to be planted with vegetation such as desirable grasses, forbs, shrubs, and trees in order to stabilize the site and support the planned post-disturbance land use, stabilize soil, reduce damage from sediment and runoff to down stream areas, prevent the spread of noxious weed species, improve wildlife habitat, improve livestock forage, and protect and enhance surrounding natural resources.

RECLAMATION OF:

Driveway Barrow Pits:

Grasses _____ Wildflowers _____ Trees _____
Other _____ Explain: Sage brush / thin grasses

Building Envelope(s):

N/A
Lawn _____ Grasses _____ Wildflowers _____ Trees _____
Other _____ Explain: _____

Septic and Leach Field:

N/A
Grasses _____ Wildflowers _____ Lawn _____
Other _____ Explain: _____

Utility Lines:

N/A
Grasses _____ Wildflowers _____ Lawn _____
Other _____ Explain: _____

Miscellaneous Disturbances (Explain):

N/A
Grasses _____ Wildflowers _____ Lawn _____
Other _____ Explain: _____

Comments: _____

MOIST AREA RECOMMENDATION

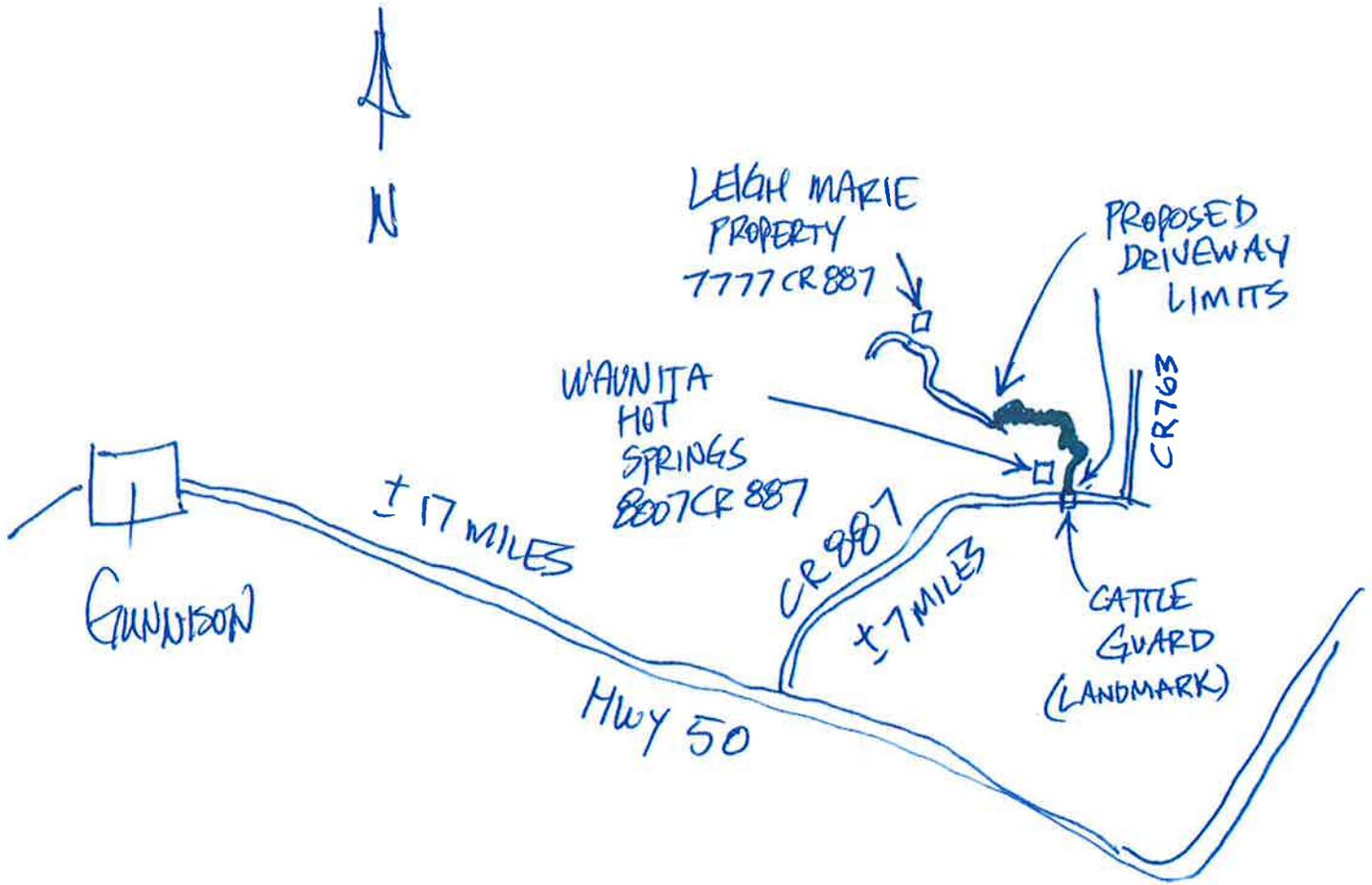
This recommendation covers most of the land area above 8500 feet in elevation.

<u>Species</u>	<u>Variety</u>	<u>lbs./ ¼ acre</u>
Smooth Bromegrass	Manchar	2 = 40%
Timothy	Climax	1 = 20%
Slender Wheatgrass	San Luis	1 = 20%
Canadian Bluegrass	Ruebens	1 = 20%
<hr/>		
Total		5 lbs. Pure Live Seed

Sometimes certain varieties of seed can be substituted, but the above varieties are suited to our area.

This seeding recommendation was provided by the Natural Resources Conservation Service. Seed can be ordered through the Gunnison Soil Conservation District by calling, (970) 641-0494.

LOCATION MAP



NOT TO SCALE

BOND NO. BX0034256

Effective Date: 07/28/2023

Subdivision Performance Bond Site Improvements

KNOW ALL PERSONS BY THESE PRESENTS that we, Waterscapes Inc / Leigh Marie LLC, as Principal, and Jet Insurance Company, a corporation organized and doing business under the laws of the state of North Carolina and duly licensed to conduct a general surety business in the state of CO, as Surety, are held and firmly bound unto Board of County Commissioners of Gunnison Co as Obligee, in the sum of Fifty seven thousand one hundred seventy six and 25/100 (\$57,176.25) dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a development agreement (the "Agreement") with said Obligee relating to a subdivision identified as: 7777 CR 887.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall well and truly perform said Agreement during the original term thereof, or of any extension of said term that may be granted by the Obligee in writing and consented to in writing by the Surety, then this obligation shall be void, otherwise it shall remain in full force and effect. This obligation is subject to the following conditions:

1. This bond runs to the benefit of the named Obligee(s) only, and no other person or entity shall have any rights under this bond.
2. No claim shall be allowed against this bond after the expiration of one year from the completion date set forth in the Agreement, or one year from the end of the latest extension of time consented to in writing by the Surety, whichever occurs last. If the limitation set forth in this bond is void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
3. In the event of a default by the Principal and the receipt by Surety of timely written notice of a claim, the Surety shall be liable to reimburse the Obligee for damages sustained by the Obligee as a result of Principal's default of its bonded obligation. It is understood and agreed that this bond shall not be construed as a penalty or as a forfeiture obligation, but rather reimburses the Obligee for actual losses incurred.
4. This bond covers installation of site improvements, and does not cover on-going maintenance of completed site improvements. This bond will not respond to any liability that arises from design defects or efficiency guarantees.
5. In no event shall the Surety's aggregate liability hereunder exceed the dollar amount of this bond set forth above.

IN WITNESS WHEREOF, the signature of said Principal is hereto affixed, and the corporate seal and the name of the Surety is hereto affixed by its duly authorized Attorney-in-Fact this 28th day of July, 2023.

Principal

Waterscapes Inc / Leigh Marie LLC

 Signature of Authorized Officer
Scott Wagner

 Print Name & Title

Jet Insurance Company



 Signature of Attorney-in-Fact
David Gonsalves Attorney in Fact

 Print Name



JET INSURANCE COMPANY

POWER OF ATTORNEY

NOW ALL BY THESE PRESENTS: That **JET INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of North Carolina, having its principal office in Charlotte, North Carolina does hereby constitute and appoint

Name
David Gonsalves

Limit of Liability per Bond
\$57,176.25

its true and lawful Attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds, undertakings, contracts of indemnity, recognizances and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, provided that the liability of such shall not exceed the limit stated above.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon **JET INSURANCE COMPANY** as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of the following resolutions adopted by the Board of Directors of **JET INSURANCE COMPANY** by unanimous written consent dated August 03, 2018, of which the following is a true excerpt:

RESOLVED that the President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority to appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, attach the Seal of the Company thereto and deliver, bonds, undertakings, contracts of indemnity, recognizances and other writings obligatory in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke, at any time, any such Attorney-in-fact and revoke the authority given.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted by unanimous written consent dated August 3, 2018, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution on behalf of the Company and delivery of any bond, undertaking, contract of indemnity, recognizance and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, **JET INSURANCE COMPANY** has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 17th day of May, 2023.



JET INSURANCE COMPANY

Spencer Siino

Richard Popp

STATE OF NORTH CAROLINA
County of Mecklenburg

Spencer Siino, President

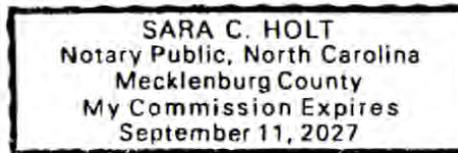
Richard Popp, Secretary

On this 17th day of May, 2023 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of Jet Insurance Company; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of said Company.

Sara C. Holt

Sara C. Holt
Notary Public, State of North Carolina
County of Mecklenburg
My Commission Expires 09/11/2027

IN WITNESS WHEREOF, I have hereunto set my hand at Jet Insurance Company offices the day and year above written.



I, Richard Popp, Secretary of **JET INSURANCE COMPANY**, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by **JET INSURANCE COMPANY**, which is still in full force and effect.

IN WITNESS WHEREOF, I have thereunto set my hand and attached the seal of said Company this 28th day of July, 2023.



Richard Popp

Richard Popp, Secretary



Wagner Estimate

**Scott Wagner
3039444600**

**WOODLAKE CONSTRUCTION MANAGEMENT
303-669-0687**

1-Jul-23

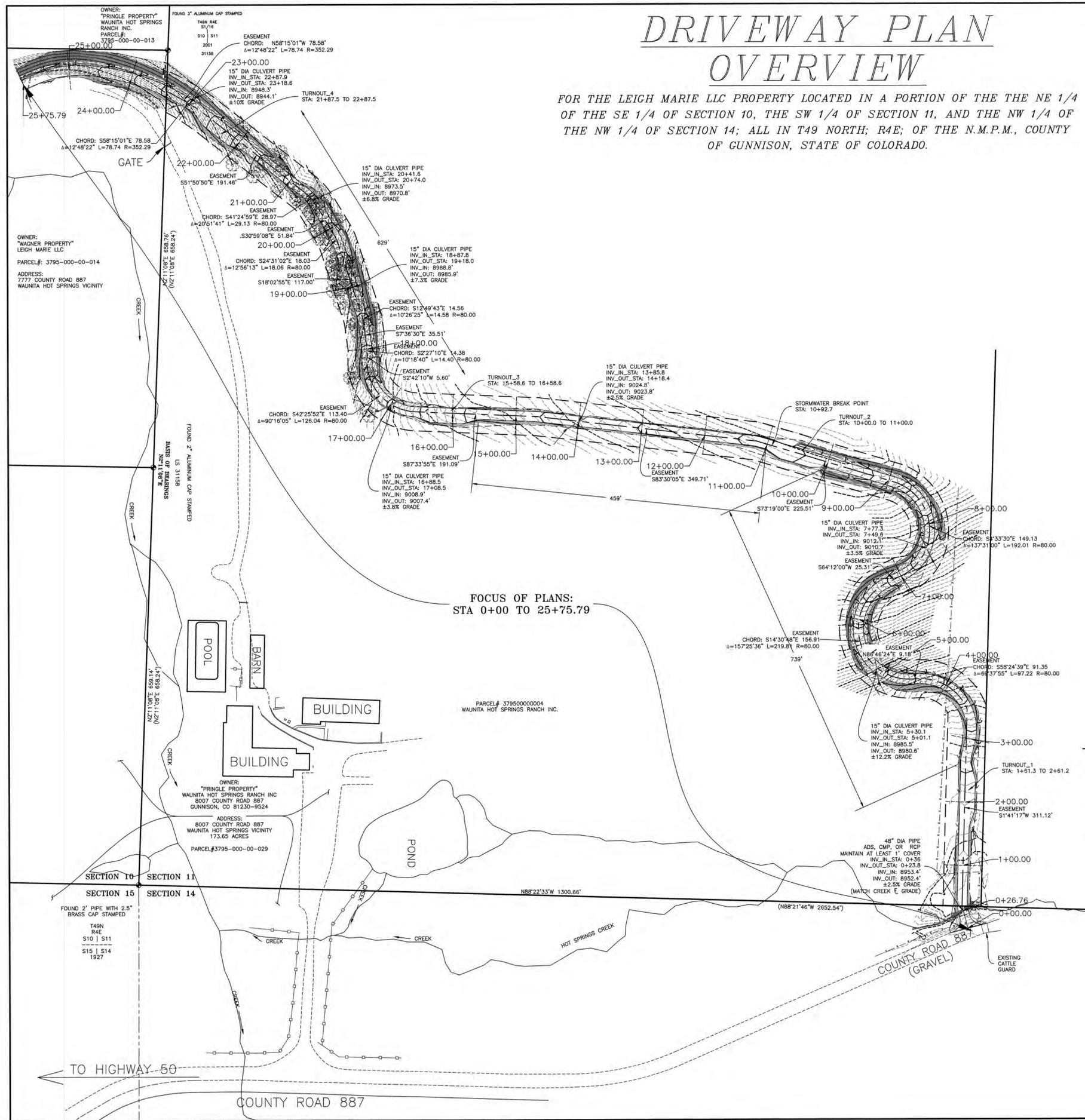
<u>SCOPE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
<u>SITE WORK</u>		
<u>Mobilization</u>		\$ 6,500
<u>Erosion Control</u>		\$ 3,250
<u>EARTHWORK:</u>	Rough grading for 2400 LF of driveway. Stabilization with native soils, compaction, and placement of 3/4" crushed stone @ 3" depth. Adjacent land reclamation with crimp & seed	\$ 23,590



<u>Trucking</u>	Crushed stone import Stone material is subject to Final Engineering recommendations	\$ 7,500
<u>SITE UTILITIES:</u>		\$ -
<u>ASPHALT PAVING:</u>		\$ -
<u>LANDSCAPE:</u>		\$ -
<u>SITE CONCRETE:</u>		\$ -
	<u>SUBTOTAL SITE WORK</u>	\$ 40,840
 <u>BUILDING</u> 		
<u>BUILDING CONCRETE:</u>		\$ -
<u>MASONRY:</u>		\$ -
<u>STEEL:</u>		\$ -
<u>CARPENTRY:</u>		\$ -
<u>THERMAL/MOISTURE:</u>		\$ -
<u>DOORS/WINDOWS:</u>		\$ -
<u>FINISHES:</u>	Acoustic ceiling remove and replace	\$ -
<u>SPECIALTIES:</u>		\$ -
<u>MECHANICAL:</u>	refrigeration and plumbing (no fixtures). HVAC startup only	\$ -
<u>ELECTRICAL:</u>		\$ -
	<u>SUBTOTAL BUILDING</u>	\$ -
	<u>SUBTOTAL SITE</u>	\$ 40,840
	<u>SUBTOTAL BUILDING AND SITE</u>	\$ 40,840

DRIVEWAY PLAN OVERVIEW

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH; R4E; OF THE N.M.P.M., COUNTY OF GUNNISON, STATE OF COLORADO.



SURVEYOR'S NOTES:

- THE PURPOSE OF THESE PLANS IS TO SHOW POTENTIAL ROAD CONSTRUCTION ACROSS A PORTION OF THE WAUNITA HOT SPRINGS RANCH INC., PROPERTY BETWEEN THE TWO GATES AS SHOWN, ALTHOUGH THE WHOLE PATHWAY ACROSS THE WAUNITA HOT SPRINGS PROPERTY TO THE EXISTING COUNTY ROAD 887 WAS EVALUATED.
- THESE PLANS ARE NOT TO BE CONSTRUED AS A LAND SURVEY PLAT, AND SHALL NOT BE USED FOR THE PURPOSE OF BUILDING FENCES OR BOUNDARY DETERMINATIONS.
- THE PLAT OF ALTA/ACSM LAND TITLE SURVEY SITUATED IN PART OF SECTION 10 TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE N.M.P.M., STATE OF COLORADO PREPARED BY CHRISTOPHER P. JULIANA P.L.S. 31158, DATED 10/31/2001, FOR AND ON BEHALF OF PRECISION SURVEY AND MAPPING, INC.; AS WELL AS THE DEPENDENT RESURVEY OF TOWNSHIP NO.49 NORTH, RANGE NO.4 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN IN COLORADO; RESURVEYED BY FRANK M. JOHNSON DATED OCTOBER 5, 1931 - AND ACCEPTED BY THE DEPARTMENT OF THE INTERIOR GENERAL LAND OFFICE ON MAY 20, 1932 - WERE USED FOR SECTION LINE AND/OR PROPERTY LINE RESEARCH.
- THE BASIS OF BEARINGS FOR THIS MAP IS THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 49 NORTH, RANGE 4 EAST OF THE N.M.P.M., WITH A MEASURED BEARING OF N21°10'08"E, WITH ALL BEARINGS HERON RELATIVE THERETO. THE SAID ALTA/ACSM SURVEY WAS ROTATED COUNTERCLOCKWISE 0°39'54" TO THIS BASIS OF BEARINGS, AND SAID TOWNSHIP RESURVEY WAS ROTATED COUNTERCLOCKWISE 0°41'14" TO THIS BASIS OF BEARINGS; TO MATCH THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 49 NORTH OF SAID SECTION 49 - AS MEASURED AT A GEODETIC BASIS OF BEARINGS. ONLY THE LINES MEASURED HERON ARE LABELED.
- ELEVATION CONTOURS FOR THESE PLANS ARE BASED ON A NO. 4 REBAR WITH PLASTIC CAP "CONTROL POINT", WITH AN ELEVATION (NAVD 88) OF 8930.11', WITH MAJOR CONTOURS AT 5' INTERVALS, AND MINOR CONTOURS AT 1' INTERVALS, AS SHOWN HERON.

ENGINEER'S NOTES:

- THE PORTION OF THE WAUNITA HOT SPRINGS RANCH INC. PROPERTY, OVER WHICH THE PROPOSED ROAD IS SHOWN, IS ZONED COMMERCIAL. THE PORTION OF THE LEIGH MARIE LLC PROPERTY IS ZONED AGRICULTURAL.
- THE PROPOSED ACCESS ROAD SHOWN IS DESIGNATED AS A LOCAL INTERMITTENT ROAD WITH AN EXPECTED 13-90 AVERAGE DAILY TRIPS.
- THE TERRAIN IS CLASSIFIED AS MOUNTAINOUS AS THE AVERAGE CROSS SLOPE IS GREATER THAN 15%.
- A DESIGN SPEED OF 15MI/HR WAS CHOSEN FOR THE ROAD.
 - A MINIMUM VERTICAL CURVE K-VALUE OF 10 WAS USED FOR 15 MI/HR AREAS PER AASHTO. AASHTO DOES NOT PROVIDE MINIMUM K-VALUES FOR SPEEDS LESS THAN 15 MI/HR.
 - THE PROPOSED ROAD IS SINGLE-LANE, 2% MINIMUM CROWNED, 16'-FOOT-WIDE, AND HAS PROPOSED DITCHES AS SHOWN, WITH CULVERTS AT LOW SPOTS.
- THE EXISTING ROADWAY ALIGNMENT WAS EVALUATED WITH VEHICLE TRACKING SOFTWARE, AND WAS FOUND TO BE ACCEPTABLE FOR A SU-30 (SINGLE UNIT TRUCK); THE ENTIRE PATHWAY PROPOSED WITH A 16' WIDE LANE WAS EVALUATED AND SHOWN TO BE ACCEPTABLE FOR A WB-40 (INTERMEDIATE SEMI-TRAILER).
- THE SOILS IN THE AREA ARE ROCKY, BUT CONTAIN SOME CLAY CONTENT. FOR THIS REASON, A DITCH AND CULVERT PIPES ARE PROPOSED TO PROMOTE POSITIVE DRAINAGE WITH NO TRAPPED WATER.
- IN AREAS WITH A RELATIVELY LOW SUBGRADE SUPPORT FROM THE CLAYEY SOILS, AN ADDITIONAL MINIMUM 6" OF #57 Limestone SUBGRADE BENEATH A LAYER OF THICK NONWOVEN GEOTEXTILE FABRIC IS RECOMMENDED AT SITE-SPECIFIC AREAS AT THE DISCRETION OF THE ENGINEER.
- SUBGRADE AND SUBBASE LAYERS SHOULD BE COMPACTED IN 12" (MAX.) LIFTS AT OPTIMUM MOISTURE CONTENT (NO GEOTECHNICAL REPORT WAS OBTAINED FOR THESE PLANS).
- ROADBASE MATERIALS SHALL BE WELL-GRADED COMPETENT FREE-DRAINING WITHOUT ORGANICS OR CLAY.
- ROCK CHECK DAMS TO BE INSTALLED IN THE PROPOSED ROADSIDE DITCH AT THE DISCRETION OF THE ENGINEER.
- EROSION CONTROL NOTES:
 - DISTURBED SOILS SHALL BE RE-SEED WITH A LOCAL GRASS MIX. A MIX RECOMMENDED BY THE GUNNISON CONSERVATION DISTRICT IS AS FOLLOWS: 40% WESTERN WHEATGRASS, 20% SLENDER WHEATGRASS, AND 20% CANADIAN BLUEGRASS BLUEGRASS AT 11LB/ACRE OR 1LB/4,000 SQFT.
 - EROSION CONTROL FABRIC SHALL BE PLACED ON ANY CUT/FILL SLOPE STEEPER THAN 2:1. EROSION CONTROL FABRIC ON SLOPES LESS THAN OR LESS THAN 2:1 IS RECOMMENDED.
 - AT INSPECTION BY THE ENGINEER, SLOPES STEEPER THAN 1:1 IN COMPETENT ROCK MAY BE ALLOWED.
- ROCK CHECK DAMS ARE PROPOSED WITHIN FOCUS AREAS AS NOTED. ROCK CHECK DAMS SHALL CONFORM TO CDOT STANDARD DRAWING M-208-1, AND SHALL BE COMPOSED OF D₅₀ DIAMETER TYPES VL ROCK. NATIVE ROCK OF THIS SIZE IS ALLOWED.
- GUNNISON COUNTY ROAD STANDARDS AND SPECIFICATIONS FOR NEW CONSTRUCTION OF ROADS AND BRIDGES (JUNE 2020) WERE USED FOR DESIGN GUIDELINES. ONE VARIANCE OR WAIVER TO THE STANDARDS (600' BETWEEN TURN OUTS) IS REQUESTED. FOR THIS DESIGN, THE LOWER TWO TURN OUTS ARE 739 FEET APART AND LOCATED AT THE TOP AND BOTTOM OF THE LOWER CURVED SECTION IN RELATIVELY FLAT AREAS AND ARE INTERVISIBLE. THE WEST MOST TURNOUTS ALSO EXCEED 600' (PROPOSED AT 629' APART).



VICINITY MAP
1" = 10,000'

INDEX OF SHEETS

1	ROAD PLAN OVERVIEW
2-6	PLAN & PROFILE
7	CROSS-SECTIONS
8	DETAILS



SCALE: 1" = 80'



LEGEND

	SURVEY CONTROL POINT
	ALIQUOT MONUMENTATION
	MEASURED OR CALCULATED DIMENSIONS
	DEEDED DIMENSIONS
	EDGE OF EXISTING ROAD/DRIVE
	EDGE OF PROPOSED ROAD/DRIVE
	ROAD/DRIVE CENTERLINE
	PROPOSED CULVERT PIPE
	ROCK CHECK DAMS
	EROSION SOCK
	PROPERTY LINE
	ALIQUOT SECTION LINE
	BARBED WIRE FENCE
	WOODEN FENCE
	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	PROPOSED MAJOR CONTOUR
	PROPOSED MINOR CONTOUR
	SURFACE GRADE (- IS DOWNHILL)
	TREES (MEAS. ONLY, MANY MORE EXIST)

BY	REVISION
DATE	

VAN HORN ENGINEERING AND SURVEYING
1043 FISH CREEK RD., ESTES PARK, COLORADO 80517
PHONE: (970) 586-9388 • email: vhe@airbills.com

DRIVEWAY PLAN OVERVIEW
8007 COUNTY ROAD 887
GUNNISON COUNTY, COLORADO

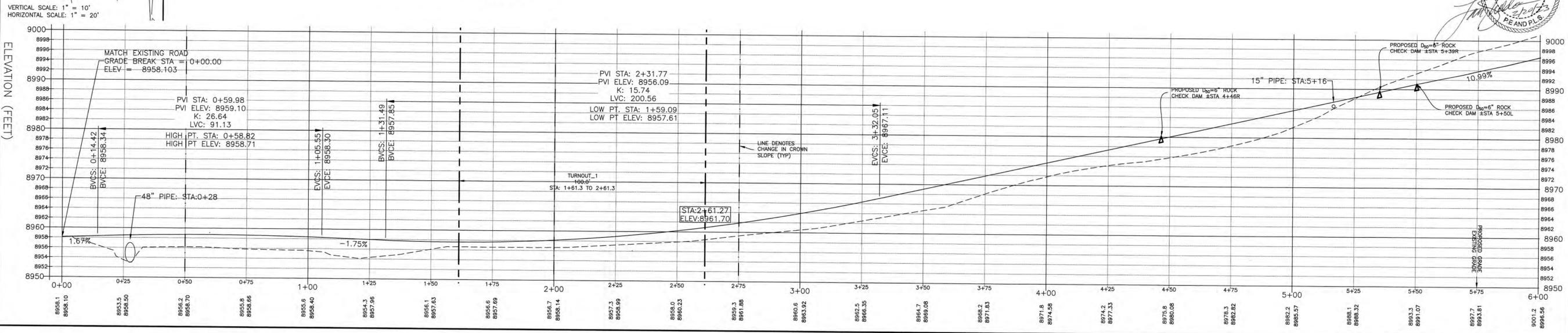
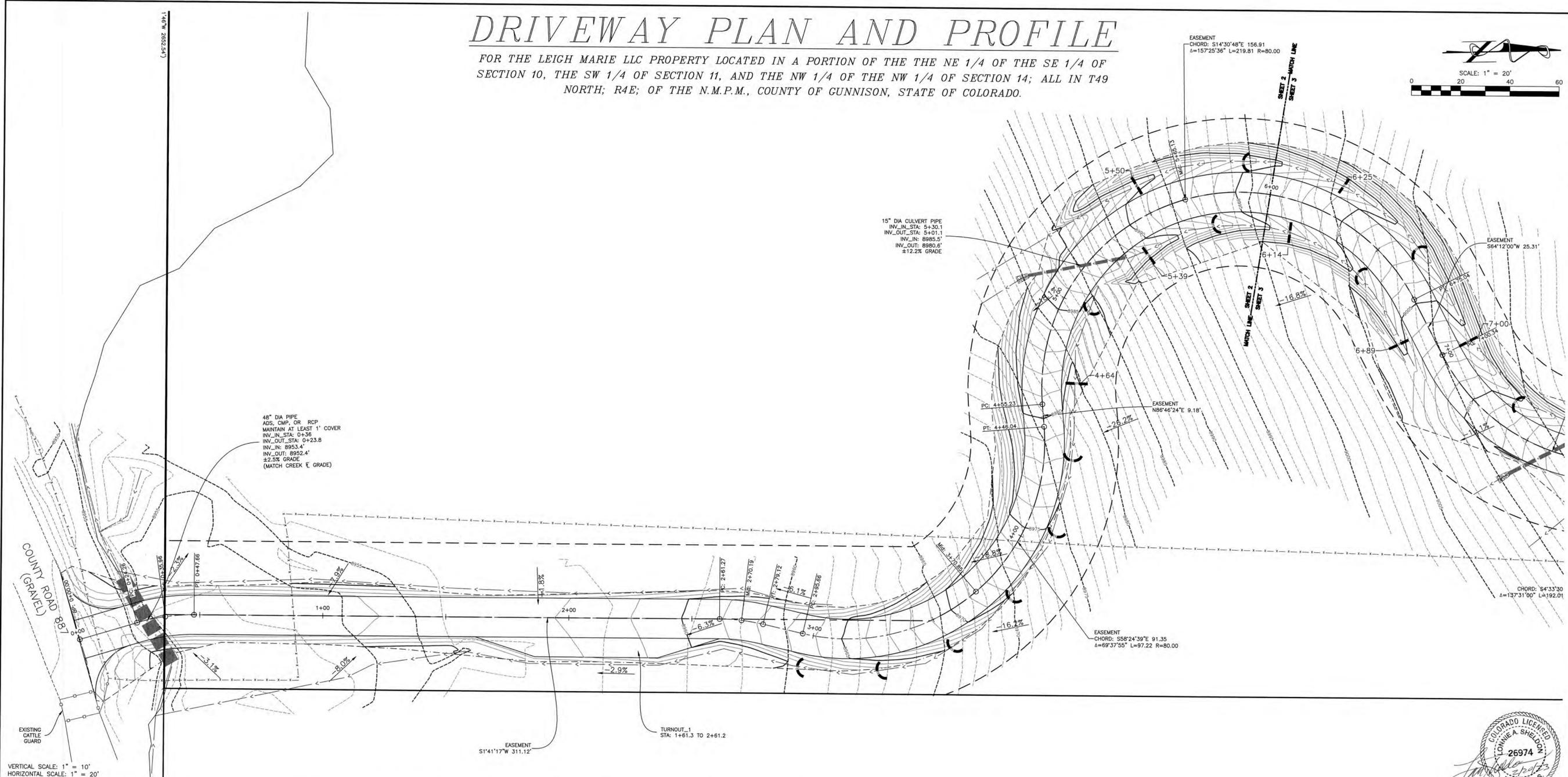
SHEET: 1 OF 8

PROJECT: 2010-03-18

DRAWN BY: JJS
CHECKED BY: LAS
SCALE: 1" = 80'
DATE: 2/20/2023

DRIVEWAY PLAN AND PROFILE

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH; R4E; OF THE N.M.P.M., COUNTY OF GUNNISON, STATE OF COLORADO.



DATE	REVISION	BY

VAN HORN ENGINEERING AND SURVEYING
 104-10800 S. HUNTERS PARK, COLORADO 80517
 PHONE: (303) 566-9386 - email: vne@vne.com

DRIVEWAY PLAN AND PROFILE
8007 COUNTY ROAD 887,
GUNNISON COUNTY, COLORADO

SHEET: 2 OF 8

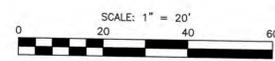
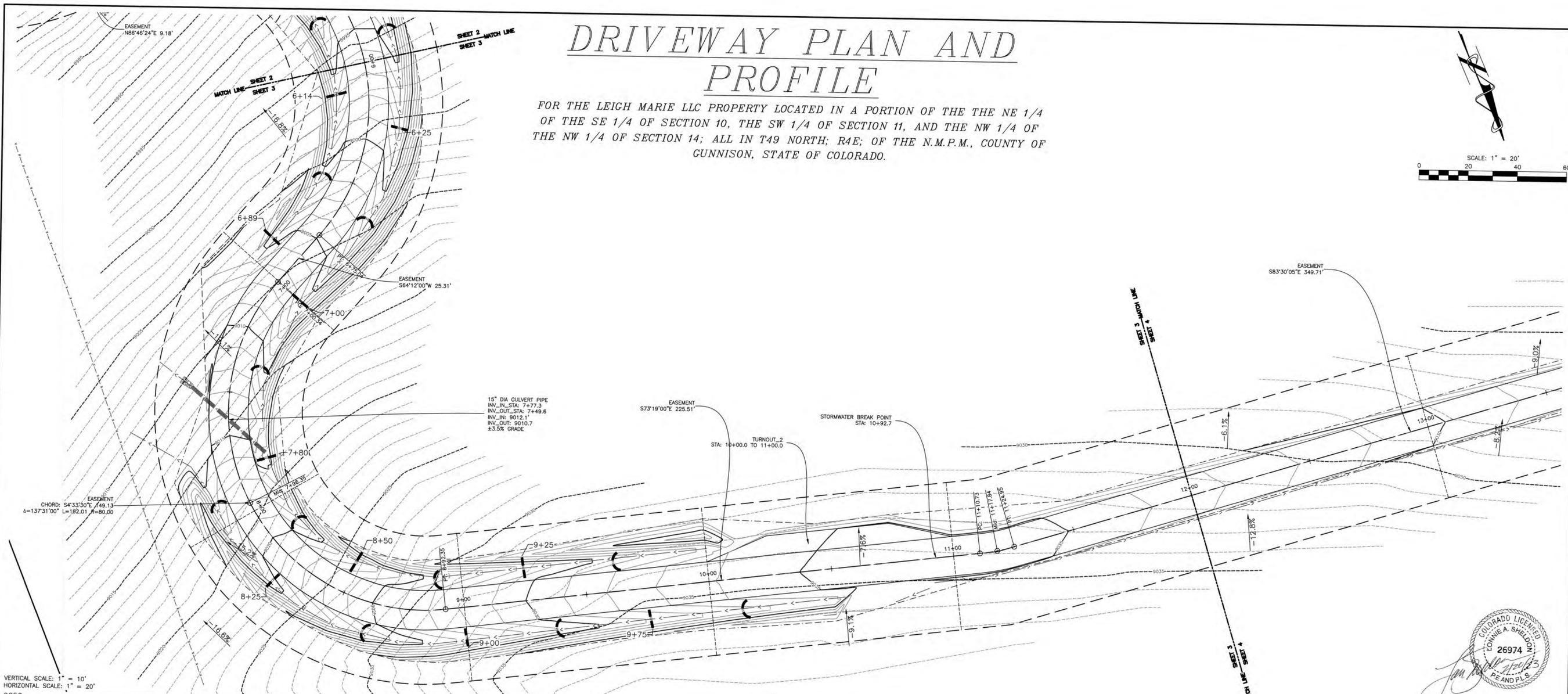
PROJ. NO. 2010-03-18

DRAWN BY: JJS
 CHECKED BY: LAS
 SCALE: 1"=20"
 DATE: 2/20/2023

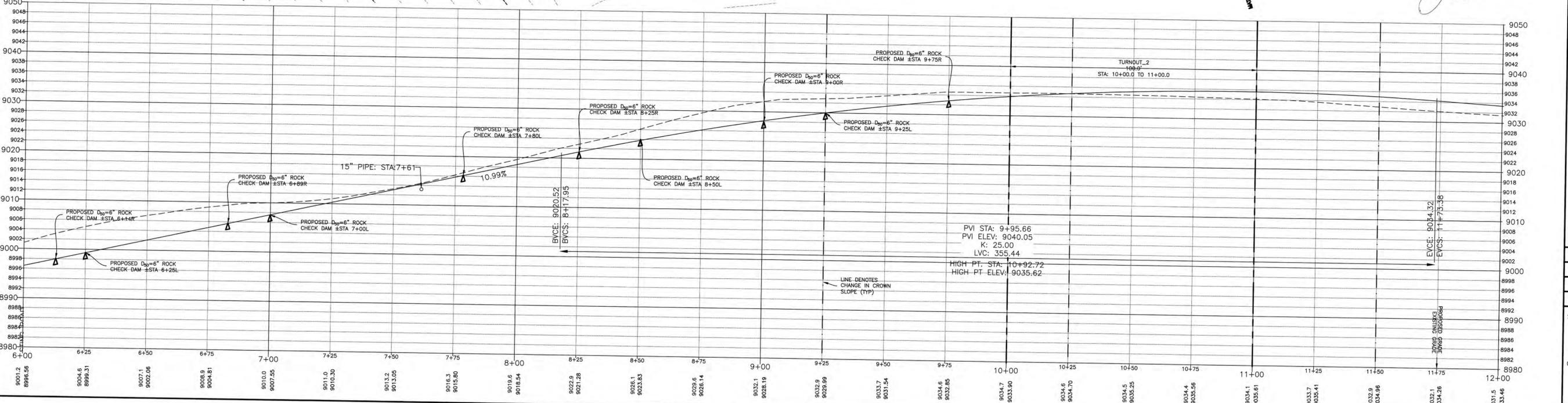


DRIVEWAY PLAN AND PROFILE

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH; R4E; OF THE N.M.P.M., COUNTY OF GUNNISON, STATE OF COLORADO.



VERTICAL SCALE: 1" = 10'
HORIZONTAL SCALE: 1" = 20'



DATE	REVISION	BY

VAN HORN ENGINEERING AND SURVEYING
 1043 FISH CREEK RD. • ESTES PARK, COLORADO, 80517
 PHONE: (970) 586-9388 • eMail: vne@vornits.com

DRIVEWAY PLAN AND PROFILE
8007 COUNTY ROAD 887,
GUNNISON COUNTY, COLORADO

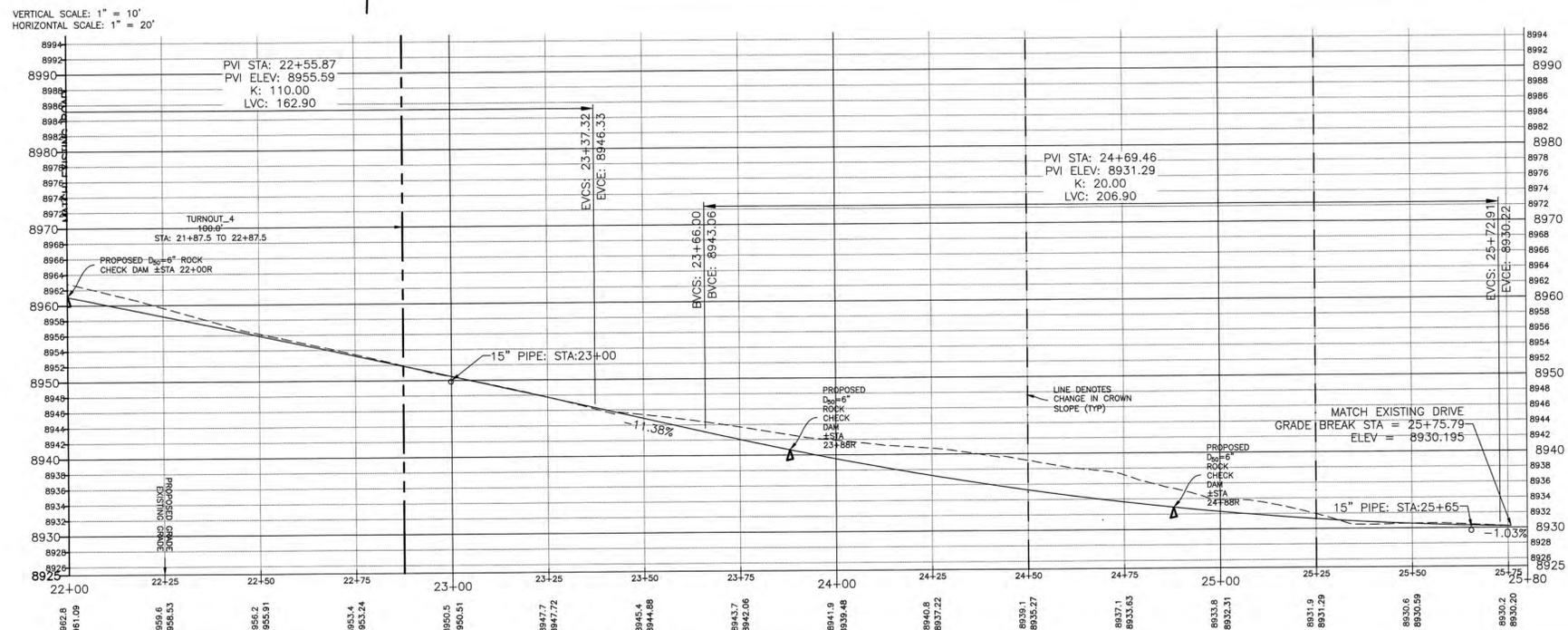
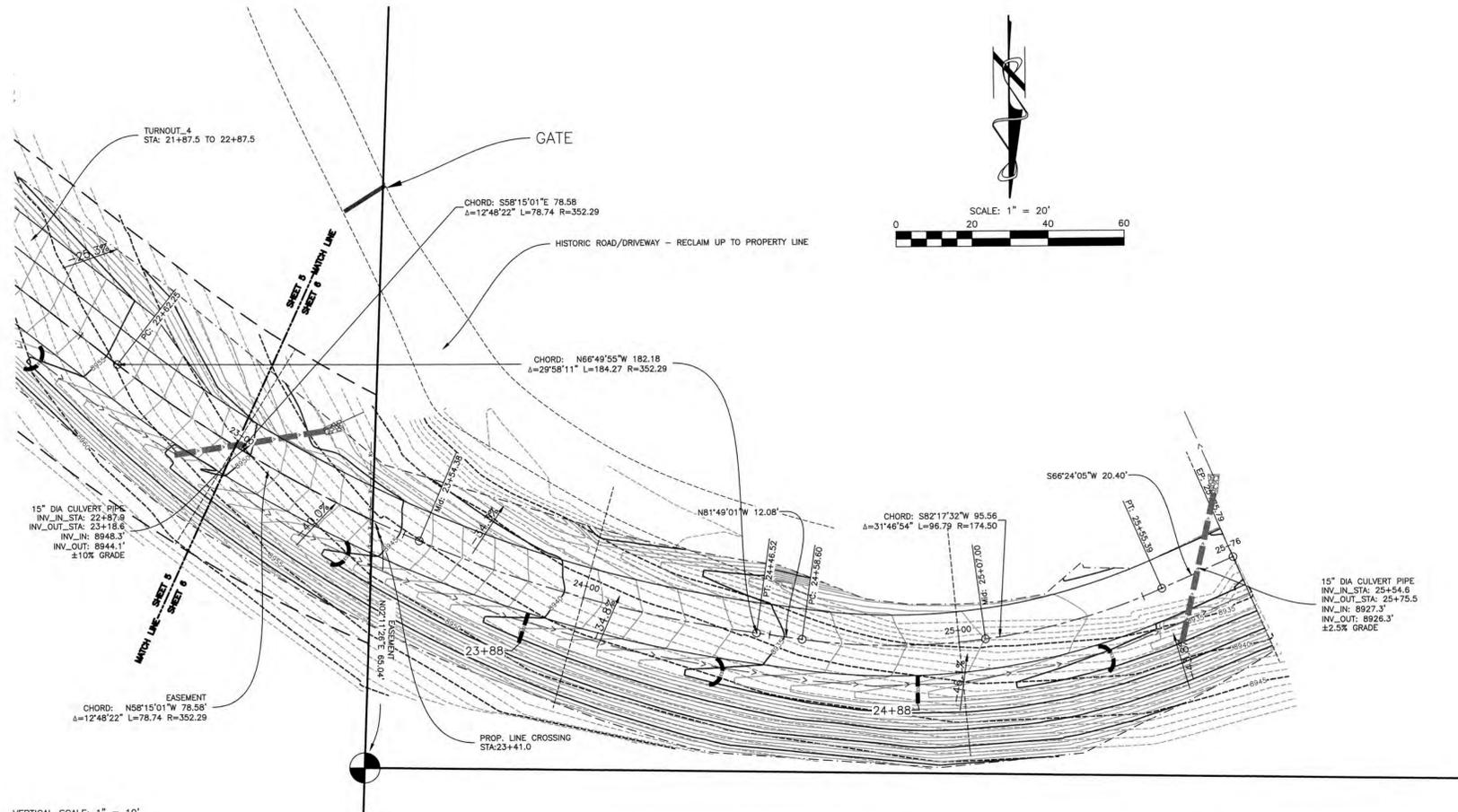
SHEET
3
 OF
8

PROJ. NO. 2010-03-18

DRAWN BY: JJS
 CHECKED BY: LAS
 SCALE: 1"=20'
 DATE: 2/20/2023

DRIVEWAY PLAN AND PROFILE

FOR THE LEIGH MARIE LLC PROPERTY LOCATED IN A PORTION OF THE THE NE 1/4 OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, AND THE NW 1/4 OF THE NW 1/4 OF SECTION 14; ALL IN T49 NORTH; R4E; OF THE N.M.P.M., COUNTY OF GUNNISON, STATE OF COLORADO.



BY	REVISION	DATE

VAN HORN ENGINEERING AND SURVEYING
1043 FISH CREEK RD. • ESTES PARK, COLORADO 80517
PHONE: (970) 586-9388 • eMail: vhe@vanhorns.com

DRIVEWAY PLAN AND PROFILE
8007 COUNTY ROAD 887,
GUNNISON COUNTY, COLORADO

SHEET: 6 OF 8

PROJECT: 2010-03-18

DATE: 2/20/2023

SCALE: 1" = 20'

CHECKED BY: LAS

DRAWN BY: JJS

PROJ. NO. 2010-03-18

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Acknowledgement of County Manager's signature; Ass

Action Requested: Motion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

For acknowledgement of the County Manager's signature: a signed Assumption of Fire Control Duty - for the County Sheriff to be able to delegate the assumption of fire control and fiscal management for the Lowline fire.

Fiscal Impact:

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda Regular Agenda Worksession

Time Allotted:

Agenda Date: 8/15/2023

ASSUMPTION OF FIRE CONTROL DUTY

I. ASSUMPTION OF CONTROL

Defined: The County Sheriff may delegate the assumption of fire control and fiscal management for a specific fire. The County Sheriff retains statutory authority as defined in CRS 30-10-513.

A. Authority for controlling the Lowline Fire burning in Gunnison County, Section(s) 25, 26 & 36,

Township 15 South, Range 87 West, is to be assumed by:

- (Check One) _____ County
- Colorado Division of Fire Prevention and Control (DFPC)

B. Specific limitations to the fire control duty assumed by DFPC (if applicable):

None.

Assumption of control is acceptable to signatory parties below and will become effective at:

0001 hrs on 07/27, 2023
Date

2400 hrs on _____, 20__
Date

End of operational period, identified as _____ hrs on _____, 20__
Date

II. PAYMENT OF COSTS INCURRED

A. The agency accepting this duty, DFPC, is responsible for (COUNTY or DFPC)

costs incurred for the following:

For suppression costs as described in the cost share agreement & while in state responsibility status

(OVER)

B. The cooperating agency, Gunnison, is
(COUNTY or DFPC)
responsible for costs incurred for the following:

See Cost share agreement.

The Sheriff agrees to conduct, or cause to be conducted, an investigation as to the cause of all State Responsibility Fires suspected to be human-caused. The Sheriff agrees to provide DFPC with a copy of the preliminary investigation report and the final report in accordance with the deadlines established in the Agreement for Cooperative Wildfire Protection.

COUNTY SHERIFF:

Adam W. Mudd
Name

Sheriff
Title

7/27/23
Date

10:51
Time

BOARD OF COUNTY COMMISSIONERS:

Maureen
Name

County Manager
Title

7/27/23
Date

10:54
Time

FOR DFPC:

[Signature]
Name

DFPC AADM
Title

7/27/23
Date

11:00
Time

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Acknowledgement of County Manager's signature; USD

Action Requested: Motion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

For acknowledgment of the County Manager's signature, a Land Use Agreement with the USFS - to establish a Helibase during the Lowline fire suppression efforts

Fiscal Impact: \$100 / day of use

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 8/4/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023

EMERGENCY FACILITIES & LAND USE AGREEMENT

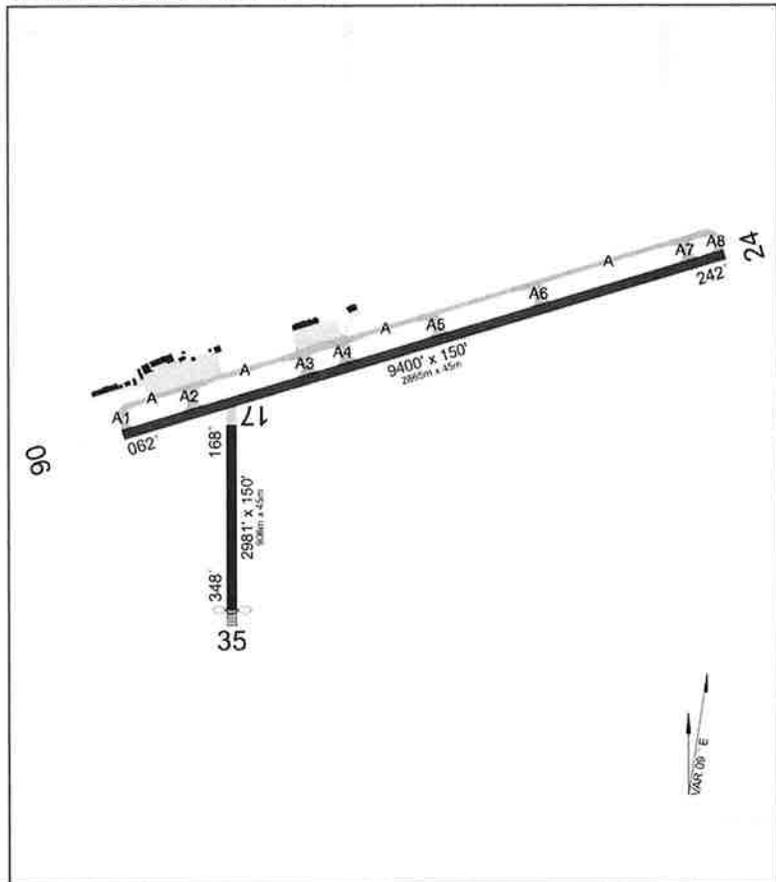
rev. 05/2023

<p>INCIDENT AGENCY (name, address, phone number) USDA Forest Service Grand Mesa Uncompahgre And Gunnison Nat'l Forests 2250 South Main St., Delta, Colorado 81416 Host Unit Phone: 970-648-4470 Email: 2023.lowline@firenet.gov</p>	<p align="center">Page 1 of 5 AGREEMENT NUMBER MUST APPEAR ON ALL PAPERS RELATING TO THIS AGREEMENT AGREEMENT NUMBER: 1282X923K4027</p>
<p>OWNER (name, address, phone number-include day/night/cell) GUNNISON COUNTY COLORADO GOVERNMENT Gunnison-Crested Butte Regional Airport- Gunnison County 200 E. Virginia Avenue Gunnison, Colorado 81230-2248 United States</p> <p>POINT OF CONTACT (if applicable): Richard Lampport- C: (909) 907-2799 O: (970) 641-2304 Matthew Birnie- O: (970) 641-7600 O: (970) 641-7601 EMAIL: rlampport@gunnisoncounty.org mbirnie@gunnisoncounty.org PAYMENT ADDRESS: <input checked="" type="checkbox"/> Same as above, or _____ UEI: NSN9FAGKEDJ9 REGISTERED IN SAM.GOV: <input type="checkbox"/> Yes or <input type="checkbox"/> No, Vendor Code Information Worksheet attached EIN/SSN (only if not in SAM): County: <u>Gunnison</u> State: <u>CO</u> Township: _____ Range: _____ Section: _____</p>	<p>EFFECTIVE DATES a. beginning: 7/28/2023 b. ending: Upon Demob/Vacating Helibase</p> <p>INCIDENT NAME: <u>Lowline</u></p> <p>INCIDENT NUMBER: <u>CO-GMF-000176</u></p> <p>RESOURCE ORDER NUMBER: <u>S-52</u></p> <p>MODIFICATION No/DATE: _____</p> <p>MODIFICATION CO Initials: _____</p>
<p>TYPE OF CONTRACTOR ("X" APPROPRIATE BOXES): <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> LARGE BUSINESS <input type="checkbox"/> SMALL DISADVANTAGED OWNED <input type="checkbox"/> WOMEN OWNED <input type="checkbox"/> HUBZONE <input type="checkbox"/> SERVICE DISABLED VETERAN <input type="checkbox"/> PUBLIC ENTITY <input checked="" type="checkbox"/> GOVERNMENT <input type="checkbox"/> OTHER</p>	
<p>The owner of the property described herein, or the duly appointed representative of the owner, agrees to furnish the land/facilities for use as <u>Helibase</u>.</p>	
<p>DESCRIPTION OF LAND/FACILITIES: Address or specific location. If street or highway address is unavailable, use distance from nearest city, crossroads, or other significant landmark. The local description of how to get to the land/facilities is also acceptable. (attach separate sheet if more space is necessary)</p>	
<p>Gunnison-Crested Butte Regional Airport (KGUC) 1 Airport Road, Gunnison CO 81230</p> <p>Utilizing the gravel airstrip (highlighted on diagram below-Strip 35) and access point to the south (Gate 14) for helicopter operations (helibase)</p> <p>Approximately 34.66 acres Land/hydrant on North side of airport</p>	

AIRPORT DIAGRAM

KGUC: GUNNISON-CRESTED BUTTE REGIONAL
 GUNNISON, COLORADO, UNITED STATES

3 NOTAMS



Distance to Next: 372 nm
 ETE Dest: -----
 Groundspeed: 0 kts
 GPS Altitude: 7,698'
 Track: -----
 Accuracy: 5 m

- Airports
- Maps
- Plates
- Documents
- Imagery
- Flights
- Logbook
- More

RATE: For each day that the land/facilities are used, the Government will pay the rate of **\$100 per day of use as tracked by assigned IMT AOB**. Ordinary wear and tear is included in the rate. See rate breakout below and restoration section for damages, etc. Fire host agency cannot fund nor pay for improvements to site or outside of normal wear and tear for intra-governmental parties/federally funded airports. Payment shall be in accordance with the incident Agency payment procedures.

Rate breakout: Rate is for assigned Lowline fire aviation assets occupying Government county airport as part of wildfire direct and essential suppression efforts. Daily rate is for allowable expenses per standard occupation for Rocky Mountain Area county airports and previously drafted LUAs for the same scope and location type (LUA Checklist & Rate Guide).

UTILITIES AND SERVICES: Hydrant use on North side of airport

- The above rate includes utility charges for the following: DIESEL GAS ELECTRICITY WATER TOILET SUPPLIES JANITORIAL SERVICES & SUPPLIES TRASH REMOVAL SEPTIC SERVICE EXISTING TELECOMMUNICATIONS
- The above rate excludes utility charges.

RESTORATION: Restoration beyond ordinary wear and tear. (check only one)

- The above sum includes Government restoration of land/facilities. Restoration shall be performed to the extent reasonably practical. Restoration work includes: _____.
- The above sum excludes restoration of land/facilities. Reasonable costs incurred by the owner (beyond ordinary wear and tear) in restoring land/facilities to their prior condition shall be annotated in the post-use inspection on this agreement form and included in the final invoice payment (as approved by the Government representative during the final walk-through). Damages & any necessary cleaning of site will be covered.

ALTERATIONS: The Government may make alterations, attach fixtures or signs, erect temporary structures in or upon the land/facilities, install temporary culverts, trenching for utilities, which shall be the property of the Government. Alterations will be removed by the Government after the termination of the emergency use, unless otherwise agreed.

ORAL STATEMENTS: Oral statements or commitments supplementary or contrary to any provisions of this Agreement shall not be considered as modifying or affecting the provisions of this Agreement.

ORDINARY WEAR AND TEAR: Ordinary wear and tear is based on the customary use of the land/facilities, and not the use resulting from the incident.

CONDITION REPORTS: A joint pre and post-use physical inspection report of the land/facilities shall be made and signed by the parties; the purpose of the inspections shall be to reflect the existing site condition.

OTHER: Describe in detail: NONE.

TERMS AND CONDITIONS: See attachment.

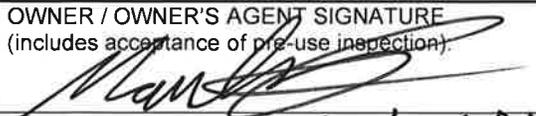
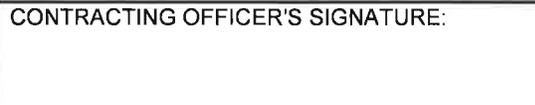
INSURANCE/ INDEMNIFICATION: The United States Federal Government is self-insured and does not have the authority to indemnify and hold harmless the County of Gunnison, from any and all claims, liabilities, losses, damages, charges, etc. The County of Gunnison does not have the authority to indemnify and hold harmless the United States Federal Government from any and all claims, liabilities, losses, damages, charges etc. The County of Gunnison will be responsible for errors, omissions and negligence of its employees. The United States Federal Government will be responsible for errors, omissions and negligence of its employees to the extent provided by Congress under the Federal Tort Claims Act [28 U.S.C. 1346(b), 2401(b), 2671-2680, as amended by P.L. 89-506, 80-Stat. 306].

CHECKLIST(s): See attachment. Fill in the following drawing showing the land/facilities under agreement. Include buildings, roads, paved areas, utility lines, fences, ditches, landscaping and any other physical features which help describe the area.

FEDERAL ACQUISITION REGULATION CLAUSES:

- FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)
 This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): www.arnet.gov/far/ or www.usda.gov/procurement/policy/agar.html
- FAR 52.213-4 Terms and Conditions -- Simplified Acquisitions (Other Than Commercial Items) (MAR 2023)
 FAR 52.222-3 Convict Labor (June 2003)
 FAR 52.232-1 Payments (APR 1984)
 FAR 52.232-11 Extras (APR 1984)
 FAR 52.232-17 Interest (MAY 2014)
 FAR 52.232-25 Prompt Payment (JAN 2017)
 FAR 52.233-1 Disputes (MAY 2014) ALT I (DEC 1991)
 FAR 52.243-1 Changes—Fixed Price (AUG 1987)ALT I (APR 1984)
 FAR 52.249-4 Termination for the Convenience of the Government (Services)(Short Form)(APR 1984)
 FAR 52.249-8 Termination for Default (Fixed-Price Supply and Service)(APR 1984)

Loss, Damage or Destruction: The Government will assume liability for the loss, damage, or destruction of facilities furnished under this Agreement, provided that no reimbursement will be made for loss, damage, or destruction when due to (1) ordinary wear and tear or (2) the fault or negligence of the owner or the owner's agent(s).

OWNER / OWNER'S AGENT SIGNATURE (includes acceptance of pre-use inspection). 	DATE: 7/29/2023	CONTRACTING OFFICER'S SIGNATURE: 	DATE: 7/29/2023
PRINT NAME AND TITLE: <u>Matthew Rishnie, County Manager</u> PHONE NUMBER: <u>970-691-0258</u> EMAIL: <u>mrishnie@gunnisoncounty.org</u>		PRINT NAME AND TITLE: KIM J. LUFT, USFS Contracting Officer PHONE NUMBER: <u>720-467-8317</u> EMAIL: <u>Kimberly.luft@usda.gov</u>	

ATTACHMENT 1

PRE-USE INSPECTION: Description or photos/ condition immediately prior the Government's occupancy.
Fenced in gravel airstrip (see below photos for accurate depiction of condition of land and fencing)



12. Request Number	Ordered Date/Time	From	To	Qty	Resource Requested	Needed Date/Time	Deliver To	From Unit	To Unit	Assigned Date/Time	Resource Assigned Unit ID	Resource Assigned	M/D Ind	Estimated Time Of Departure	Estimated Time Of Arrival	Released Date	Released To
		P2 QFT2 (0204)				LUA - lowline fire ICP- Gunnison High School, 800 W Ohio Ave, Gunnison, CO 81230						Incident Jetport(s): MTJ*, GJT 800 W Ohio Ave, Gunnison, CO 81230					
S-52	2023-07-28 1622 MDT	Keith Plaemann LSC1 801-664-2781	CO-MTC	1	Service - Land Rental	2023-07-28 2000 MDT	Lowline CO- GMF-0001 76	CO-MTC	CO-MTC	Invalid date	KJL	Pending					
Travel Mode		Financial Code P2 QFT2 (0204)		Named Request	Special Needs LUA - lowline fire Helibase - Gunnison Airport							Navigation/Reporting Instructions Incident Jetport(s): MTJ*, GJT Gunnison Airport					

13. User Documentation	
Req. No.	Entered By
S-50	mmccormack 2023-07-28 1632 MDT

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Acknowledgement of County Manager's signature; USD

Action Requested: Motion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

For acknowledgement of the County Manager's signature, a Land Use Agreement for use of the County Fairgrounds and some of the buildings during the Lowline fire-fighting efforts. A signed Description of Use/Pre-Use Inspection is attached here as well.

Fiscal Impact: \$600 / day of use

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 8/4/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient SO 8/4/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/4/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023

EMERGENCY FACILITIES & LAND USE AGREEMENT

rev. 05/2023

AGREEMENT NUMBER MUST APPEAR ON ALL PAPERS RELATING TO THIS AGREEMENT

AGREEMENT NUMBER: 1202RZ23K4082

EFFECTIVE DATES

a. beginning: 07/27/2023

b. ending: End of Incident

INCIDENT AGENCY (name, address, phone number)
USDA Forest Service
At Incident Management Support Branch (AIMS)
1617 Cole Blvd
Lakewood, CO 80401

OWNER (name, address, phone number-include day/night/cell)
Gunnison County Colorado Government
200 E Virginia AVE
Gunnison, Colorado 81230-2248

POINT OF CONTACT (if applicable): John Cattles 970-275-0768
EMAIL: jcattles@gunnisoncounty.org
PAYMENT ADDRESS: [X] Same as above, or
UEI: NSN9FAGKEDJ9
REGISTERED IN SAM.GOV: [X] Yes or [] No, Vendor Code
Information Worksheet attached
EIN/SSN (only if not in SAM):
County: Gunnison State: CO Township: Range: Section:

INCIDENT NAME: Lowline
INCIDENT NUMBER: CO-GMF-000176
RESOURCE ORDER NUMBER: S-50
MODIFICATION No/DATE:
MODIFICATION CO Initials:

TYPE OF CONTRACTOR ("X" APPROPRIATE BOXES):

- [] SMALL BUSINESS [] LARGE BUSINESS [] SMALL DISADVANTAGED OWNED [] WOMEN OWNED [] HUBZONE
[] SERVICE DISABLED VETERAN [] PUBLIC ENTITY [X] GOVERNMENT [] OTHER

The owner of the property described herein, or the duly appointed representative of the owner, agrees to furnish the land/facilities for use as a Base Camp.

DESCRIPTION OF LAND/FACILITIES: Address or specific location. If street or highway address is unavailable, use distance from nearest city, crossroads, or other significant landmark. The local description of how to get to the land/facilities is also acceptable. (attach separate sheet if more space is necessary)

Fairground is located at: 275 S Spruce St A, Gunnison, CO 81230

Incident personnel may utilize the open areas of the fairgrounds and some of the buildings (see attached map). Exceptions to use are: the Hartman Room, the kitchen, the groomed arena, the buildings at the south end of the fairgrounds and the animal stalls/pens.

Areas of NON-USE are indicated on the attached map.

Use of the fairgrounds includes parking areas, buildings, restrooms, camping/rv parking spaces, existing Wi-Fi, water and the outdoor lighting system.

RATE: For each day that the land/facilities are used, the Government will pay the rate of \$600.00 per day. Ordinary wear and tear is included in the rate. The minimum amount guaranteed to be paid under this agreement shall be \$ N/A, regardless of the length of use. The maximum amount to be paid under this agreement shall not exceed \$50,000.00. Payment shall be in accordance with the incident Agency payment procedures.

Rate breakout: \$600.00 per day

UTILITIES AND SERVICES:

- [X] The above rate includes utility charges for the following: [] DIESEL [] GAS [X] ELECTRICITY [X] WATER [X] TOILET SUPPLIES [] JANITORIAL SERVICES & SUPPLIES [] TRASH REMOVAL [X] SEPTIC SERVICE [X] EXISTING TELECOMMUNICATIONS

[] The above rate excludes utility charges. The Government will pay to the owner the sum determined due by the Contracting Officer based on:

RESTORATION: Restoration beyond ordinary wear and tear. (check only one)

- The above sum includes Government restoration of land/facilities. Restoration shall be performed to the extent reasonably practical. Restoration work includes: _____.
- The above sum excludes restoration of land/facilities. Reasonable costs incurred by the owner (beyond ordinary wear and tear) in restoring land/facilities to their prior condition shall be submitted, in writing, to the Contracting Officer.

ALTERATIONS: The Government may make alterations, attach fixtures or signs, erect temporary structures in or upon the land/facilities, install temporary culverts, trenching for utilities, which shall be the property of the Government. Alterations will be removed by the Government after the termination of the emergency use, unless otherwise agreed.

ORAL STATEMENTS: Oral statements or commitments supplementary or contrary to any provisions of this Agreement shall not be considered as modifying or affecting the provisions of this Agreement.

ORDINARY WEAR AND TEAR: Ordinary wear and tear is based on the customary use of the land/facilities, and not the use resulting from the incident.

CONDITION REPORTS: A joint pre and post-use physical inspection report of the land/facilities shall be made and signed by the parties; the purpose of the inspections shall be to reflect the existing site condition.

OTHER: Describe in detail: N/A.

TERMS AND CONDITIONS: See attachment.

INSURANCE/ INDEMNIFICATION: The United States Federal Government is self-insured and does not have the authority to indemnify and hold harmless the Gunnison County Colorado Government, from any and all claims, liabilities, losses, damages, charges, etc. The Gunnison County Colorado Government does not have the authority to indemnify and hold harmless the United States Federal Government from any and all claims, liabilities, losses, damages, charges etc. The Gunnison County Colorado Government will be responsible for errors, omissions and negligence of its employees. The United States Federal Government will be responsible for errors, omissions and negligence of its employees to the extent provided by Congress under the Federal Tort Claims Act [28 U.S.C. 1346(b), 2401(b), 2671-2680, as amended by P.L. 89-506, 80-Stat. 306].

CHECKLIST(s): See attachment. Fill in the following drawing showing the land/facilities under agreement. Include buildings, roads, paved areas, utility lines, fences, ditches, landscaping and any other physical features which help describe the area.

FEDERAL ACQUISITION REGULATION CLAUSES:

- FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)
 This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): www.arnet.gov/far/ or www.usda.gov/procurement/policy/agar.html
- FAR 52.213-4 Terms and Conditions -- Simplified Acquisitions (Other Than Commercial Items) (MAR 2023)
- FAR 52.222-3 Convict Labor (June 2003)
- FAR 52.232-1 Payments (APR 1984)
- FAR 52.232-11 Extras (APR 1984)
- FAR 52.232-17 Interest (MAY 2014)
- FAR 52.232-25 Prompt Payment (JAN 2017)
- FAR 52.233-1 Disputes (MAY 2014) ALT I (DEC 1991)
- FAR 52.243-1 Changes—Fixed Price (AUG 1987)ALT I (APR 1984)
- FAR 52.249-4 Termination for the Convenience of the Government (Services)(Short Form)(APR 1984)
- FAR 52.249-8 Termination for Default (Fixed-Price Supply and Service)(APR 1984)

Loss, Damage or Destruction: The Government will assume liability for the loss, damage, or destruction of facilities furnished under this Agreement, provided that no reimbursement will be made for loss, damage, or destruction when due to (1) ordinary wear and tear or (2) the fault or negligence of the owner or the owner's agent(s).

OWNER / OWNER'S AGENT SIGNATURE: 	DATE: 7/30/23	CONTRACTING OFFICER'S SIGNATURE: SHERRY HELMICK Digitally signed by SHERRY HELMICK Date: 2023.07.30 19:18:21 -04'00'	DATE: Effective 7/27/2023
PRINT NAME AND TITLE: Matthew Binnie County Manager PHONE NUMBER: 970-641-0298 EMAIL: mbinnie@gunnisoncounty.org	PRINT NAME AND TITLE: Sherry Helmick, Contracting Officer PHONE NUMBER: 540-315-6988 EMAIL: sherry.helmick@usda.gov		

Gunnison County Fairgrounds

Description of Use/Pre-Use Inspection

Fairgrounds Multipurpose Building

- The main building on site in the northwest corner of the property
- Use of meeting areas for briefing and administrative workspace
- Use of county tables, chairs and bathrooms are included
- Kitchen and covered Pavilion will retain public access.
- Fairgrounds were completing all janitorial and maintenance until the fire takes over the service starting July 31, 2023.
- Issued key #1 for Multipurpose Building
- Issued key for 4-H Building

4-H Building

- Primary use of this building is administrative
- Use of bathroom, tables and chairs is included
- Small kitchen resides in this building and is available for light use
- A small hole in the drywall was noted on west wall and existed prior to use
- Greenhouse on the south side of building is restricted to county use

Restroom Building

- This is a masonry block type building
- Used by firefighters both restroom and shower rooms
- This building is also open for public use

Barn B (Quonset)

- This is a large metal sided utility building
- This building is being used as part of the Supply Unit for storage

Central Large Parking area

- This is a large open dirt area that will primarily be used for parking and equipment staging

Mobile Shower Area

- Generally a flat dirt area
- Directly adjacent to the Central Parking area (west side)

Catering Area

- Generally a flat dirt area
- Directly adjacent to the Central Parking area (east side)

Ground Support (central east parking)

- Generally a flat dirt area

- Area used for staging vehicles, equipment and vehicle inspections
- Tough Shed on site is being used for Ground Support administration
 - Owned by the Cattleman's Association

Small Camping Area

- Partially vegetated flat area mostly surrounded by rail fence
- Used for tent sleeping

Central Handwash

- Directly adjacent and north of the arena
- The county move a few portable corral panels by the calf chute in the arena to accommodate this use

Weed Wash

- This is a dirt area at the north end of fair grounds
- Fairgrounds staff moved Jersey barriers for improve access upon fire personnel request
- Fairgrounds staff removed one wood post and one wood rail for access upon fire personnel request

Front Gate

- Main gate at north end of facility
- 2 gate posts and 1 rail post were removed for improved access upon fire personnel request
 - Post was 6-inch diameter steel, rail post was 2-inch diameter both were cemented in the ground

Metered Water

- This is a shortened stand pipe adjacent to the multipurpose building
- Water is being used for dust suppression
- County personnel moved a Jersey barrier to protect this meter

General Uses

- Power throughout the facilities and site
- Arena flood lights are being used at night

Fire Hydrant

- One is located adjacent and south of the multipurpose building and one is located adjacent and due west of the multipurpose building and both are on the same line
- Use is for drawing potable water for catering, mobile shower and handwash trailers at the Fairgrounds and Castleton Spike

Government Representative: Ken Hehr, FACL  7/31/2023

County Representative: 

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Application for Transportation, Utili

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: USFS

Term Begins:

Term Ends:

Grant Contract #:

Summary:

This application allows the County to plow up CR 12 in the spring, as the snow melts, and establish new access points for permitted and day use users of the winter trailhead on Kehler.

Fiscal Impact:

Submitted by: MARTIN SCHMIDT

Submitter's Email Address: mschmidt@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient. SO 8/9/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/9/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda Regular Agenda Worksession

Time Allotted:

Agenda Date: 8/15/2023

STANDARD FORM 299
APPLICATION FOR TRANSPORTATION, UTILITY SYSTEMS, TELECOMMUNICATIONS AND FACILITIES
ON FEDERAL LANDS AND PROPERTY

FORM APPROVED
 OMB Control Number: 0596-0249
 Expiration Date: 02/28/2023

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application for an authorization (easement, right-of-way, lease, license or permit), the applicant should completely review this package, including instructions, and schedule a pre-application meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the pre-application meeting.

Application Number

Date Filed

1. Name and address of applicant

2. Name and address of authorized agent if different from item 1

3. Applicant telephone number and email:

Authorized agent telephone number and email:

4. As applicant are you? *(check one)*

- a. Individual
- b. Corporation*
- c. Partnership/Association*
- d. State Government/State Agency
- e. Local Government
- f. Federal Agency

* If checked, complete supplemental page

5. Specify what application is for: *(check one)*

- a. New authorization
- b. Renewing existing authorization number
- c. Amend existing authorization number
- d. Assign existing authorization number
- e. Existing use for which no authorization has been received *
- f. Other*

* If checked, provide details under item 7

6. If an individual, or partnership, are you a citizen(s) of the United States? Yes No

7. Project description (describe in detail): (a) Type of use or occupancy, (e.g., canal, pipeline, road, telecommunications); (b) related structures and facilities; (c) physical specifications (Length, width, grading, etc.); (d) term of days/years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for activity/construction (Attach additional sheets, if additional space is needed.)

8. Attach a map covering area and show location of project proposal.

9. State or Local government approval: Attached Applied for Not Required

10. Nonrefundable application fee: Attached Not required To be determined by agency

11. Does project cross international boundary or affect international waterways? Yes No (if "yes," indicate on map)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

13a. Describe other alternative locations considered.

b. Why were these alternatives not selected?

c. Give explanation as to why it is necessary to use or occupy Federal assets (lands or buildings).

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability; and, (g) historic or archaeological resources or properties.

18. Describe the probable effects that the proposed project will have on (a) populations of fish, plant life, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

19. State whether any hazardous material, as defined in this paragraph, would be used, produced, transported or stored on or in a federal building or federal lands or would be used in connection with the proposed use or occupancy. "Hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include (or in the case of approval provided after this permit is issued, shall be amended to include) specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

20. Name all the Federal Department(s)/Agency(ies) where this application is being filed.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

Date

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

GENERAL INFORMATION
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation utility systems telecommunication installations facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Wired and wireless systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved right-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture
Regional Forester, Forest Service (USFS)
P.O. Box 21628
Juneau, Alaska 99802-1628
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior
Bureau of Indian Affairs (BIA)
Alaska Regional Office
709 West 9th Street
Juneau, Alaska 99802
Telephone: (907) 586-7177

Department of the Interior
Alaska State Office
Bureau of Land Management
222 West 7th Avenue #13
Anchorage, Alaska 99513
Public Room: 907-271-5960
FAX: 907-271-3684
(or a local BLM Office)

U.S. Fish & Wildlife Service (FWS)
Office of the Regional Director 1011
East Tudor Road Anchorage, Alaska
99503 Telephone: (907) 786-3440

National Park Service (NPS)
Alaska Regional Office
240 West 5th Avenue
Anchorage, Alaska 99501
Telephone: (907) 644-3510

Note - Filings with any Interior agency may be filed with any office noted above or with the Office of the Secretary of the Interior, Regional Environmental Officer, P.O. Box 120, 1675 C Street, Anchorage, Alaska 99513.

Department of Transportation
Federal Aviation Administration
Alaska Region AAL-4, 222 West 7th Ave., Box 14
Anchorage, Alaska 99513-7587
Telephone: (907) 271-5285

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual department/agencies may authorize the use of this form by applicants for transportation, utility systems, telecommunication installations and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS
(Items not listed are self-explanatory)

- 7 Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
- 8 Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.
- 9, 10, and 12 The responsible agency will provide additional instructions.
- 13 Providing information on alternate locations in as much detail as possible, discussing why certain locations were rejected and why it is necessary to use Federal assets will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate locations as related to current technology and economics.
- 14 The responsible agency will provide instructions.
- 15 Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
- 16 through 19 Providing this information with as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

EFFECT OF NOT PROVIDING INFORMATION

Disclosure of the information is voluntary. If all the information is not provided, the proposal or application may be rejected.

DATA COLLECTION STATEMENT

The Federal agencies collect this information from proponents and applicants requesting a right-of-way, permit, license, lease, or certification for use of Federal assets. The Federal agencies use this information to evaluate a proponent's or applicant's proposal to use Federal assets.

BURDEN STATEMENT

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0249. The time required to complete this information collection is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The authority to collect this information is derived from 47 U.S.C. 1455(c)(3) and 16 U.S.C. 3210.

USDA NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

SUPPLEMENTAL

NOTE: The responsible agency(ies) will provide instructions	CHECK APPROPRIATE BLOCK	
I - PRIVATE CORPORATIONS	ATTACHED	FILED*
a. Articles of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Corporation Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	<input type="checkbox"/>	<input type="checkbox"/>
f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications.	<input type="checkbox"/>	<input type="checkbox"/>
g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	<input type="checkbox"/>	<input type="checkbox"/>
II - PUBLIC CORPORATIONS		
a. Copy of law forming corporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Proof of organization	<input type="checkbox"/>	<input type="checkbox"/>
c. Copy of Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	<input type="checkbox"/>	<input type="checkbox"/>
III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY		
a. Articles of association, if any	<input type="checkbox"/>	<input type="checkbox"/>
b. If one partner is authorized to sign, resolution authorizing action is	<input type="checkbox"/>	<input type="checkbox"/>
c. Name and address of each participant, partner, association, or other	<input type="checkbox"/>	<input type="checkbox"/>
d. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	<input type="checkbox"/>	<input type="checkbox"/>

*If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.

CR 12 TH Map

Map of auxillary TH locations along Kebler Pass Road

Legend
📌 TH



AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Colorado Department of Human Services

Action Requested: Motion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #: SB22-196 CJ Early Intervention

Summary:

Attached is the final draft of the FY24 CJ196 Criminal Justice Early Intervention Contract. We are ready to submit the contract into final clearance, but we need to hear from you before we can proceed. Please let us know if agreeable by Thursday, August 17, 2023. Docu Sign will be sent after that.

Fiscal Impact: \$721,511

Submitted by: Kari Commerford

Submitter's Email Address: kcommerford@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 8/11/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient. SO 8/11/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/11/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023

STATE OF COLORADO DEPARTMENT OF HUMAN SERVICES CONTRACT

SIGNATURE AND COVER PAGES

CMS #: 24 IBEH 183800	eClearance#: 2309117
State Agency Colorado Department of Human Services Behavioral Health Administration	Contractor Gunnison County Contractor's State of Incorporation: Colorado
Contract Maximum Amount Initial Term State Fiscal Year 2024 \$721,511.00 Extension Terms None Maximum Amount for All Fiscal Years \$721,511.00	Contract Performance Beginning Date The later of the Effective Date or July 1, 2023 Initial Contract Expiration Date June 30, 2024 Except as stated in §2.D , the total duration of this Contract, including the exercise of any options to extend, shall not exceed 5 Years from its Performance Beginning Date.
Pricing/Funding Price Structure: Cost Reimbursement Contractor shall invoice: Monthly Fund Source: American Rescue Plan Act Grant, C.F.D.A. 21.027	Options The State shall have the following options if indicated with "Yes," as further described in §2.C and §5.B.v: Option to Extend Term per §2.C: Yes Option to Increase or Decrease Maximum Amount per §5.B.v: Yes



<p>Insurance Contractor shall maintain the following insurance if indicated with “Yes,” as further described in §10:</p> <p>Worker’s Compensation: Yes General Liability: Yes Automobile Liability: Yes Protected Information: Yes Professional Liability Insurance: Yes Cyber/Net. Security-Privacy Liability Insurance: No Crime Insurance: No</p>	<p>Miscellaneous Authority to enter into this Contract exists in: C.R.S. 27-60-402.. Law-Specified Vendor Statute (if any): NA Procurement Method: Request for Proposals (RFP) Solicitation Number (if any): IBEH 2023000168</p>
<p>State Representative</p> <p>Stephen Peng, Chief Financial Officer Behavioral Health Administration 701 S. Ash Street, Unit C140, Denver, CO 80246 303-874-8532 stephen.peng@state.co.us</p>	<p>Contractor Representative</p> <p>Perry Solheim, Chief Financial Officer Gunnison County 200 E. Virginia Ave., Gunnison, CO 81230 970-641-2203 psolheim@gunnisoncounty.org</p>

<p>Exhibits The following Exhibits are attached and incorporated into this Contract:</p> <p>Exhibit A - Statement of Work Exhibit B - Budget Exhibit C - Miscellaneous Provisions Exhibit D - HIPAA Business Associates Addendum / QSOA Exhibit E - Supplemental Provisions for Federal Awards Exhibit F - SLFRF Subrecipient Provisions Exhibit - CDHS</p>
<p>Contract Purpose To establish and expand services to divert and deflect individuals with behavioral health needs away from the criminal justice system and into appropriate treatment.</p>

Signature Page Begins On Next Page

THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK



THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

<p align="center">CONTRACTOR Jonathan Houck, Chairperson Gunnison County Commissioners</p>	<p align="center">STATE OF COLORADO Jared S. Polis, Governor Department of Human Services Michelle Barnes, Executive Director</p>
<p>By: Jonathan Houck, Chairperson Gunnison County Commissioners</p> <p>Date: _____</p>	<p>By: Michelle Barnes, Interim Commissioner, Behavioral Health Administration</p> <p>Date: _____</p>
<p>2nd State or Contractor Signature if Needed</p> <p>By: Name & Title of Person Signing for Signatory</p> <p>Date: _____</p>	<p align="center">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p>By: _____ Assistant Attorney General</p> <p>Date: _____</p>
<p align="center">In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p align="center">By: _____ Andrea Eurich/Toni Williamson</p> <p align="center">Effective Date: _____</p>	

-- Signature and Cover Pages End --

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1. PARTIES

This Contract is entered into by and between Contractor named on the Signature and Cover Pages for this Contract (the “Contractor”), and the STATE OF COLORADO acting by and through the Department of Human Services (the “State” or “CDHS”). Contractor and the State agree to the terms and conditions in this Contract.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

B. Initial Term

The Parties' respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Signature and Cover Pages for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Signature and Cover Pages for this Contract (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State's Option

If the Signature and Cover Pages for this Contract shows that the State has the Option to Extend Term, then the State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §21 "Sample Option Letter." The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract. Except as stated in §2.D, the total duration of this Contract, including the exercise of any options to extend, shall not exceed 5 years from its Performance Beginning Date, or the number of years specified on the Signature and Cover Pages if such number is less than 5 years, absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in §15, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension" or "Holdover"), regardless of whether additional Extension Terms are available or not. Any such extension shall be under the same terms and conditions of the operative Contract including, but not limited to, prices, rates, and service delivery requirements. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of the Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for Breach of Contract by Contractor, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §15. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

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

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. "Breach of Contract" means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.

B. "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 as listed in §24-11-101(1) C.R.S.

C. “Chief Procurement Officer” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.

D. “CJI” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under 24-72-302 C.R.S.

E. “Contract” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto. For purposes of clarification and the removal of any doubt, subject to any future modifications thereto, the Signature and Cover Pages and Sections 1 through 21, as identified in the Table of Contents herein above, shall constitute the “main body” of this Contract exclusively.

F. “Contract Funds” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.

G. “CORA” means the Colorado Open Records Act, §§24-72-200.1 et. seq., C.R.S.

H. “Deliverable” means the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of Contractor’s Work that is intended to be delivered to the State by the Contractor.

I. “Effective Date” means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then Effective Date of this Contract shall be the later of the date on which this Contract is approved and signed by the State’s Chief Information Officer or authorized delegate or the date on which this Contract is approved and signed by the State Controller or authorized delegate, as shown on the Signature and Cover Page for this Contract.

J. “End of Term Extension” means the time period defined in §2.D.

K. “Exhibits” means the exhibits and attachments included with this Contract as shown on the Signature and Cover Pages for this Contract..

L. “Extension Term” means the time period defined in §2.C.

M. “Goods” means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.

N. “Incident” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et. seq., C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.

O. “Initial Term” means the time period defined in §2.B.

P. “Party” means the State or Contractor, and “Parties” means both the State and Contractor.

Q. “PCI” means payment card information including any data related to credit card holders’ names, credit card numbers, or other credit card information as may be protected by state or federal law.

R. “PHI” means any individually identifiable health information, transmitted or maintained in electronic or any form or medium, including but not limited to demographic information,, (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

S.. “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 and 24-73-101, C.R.S. “PII” shall also mean “personal identifying information” as set forth in § 24-72-102, et. Seq., C.R.S.

T. “Services” means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.

U. “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, PHI, PCI, Tax Information, CJI, Educational Records, Substance Use Disorder Information, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

V. “State Fiscal Rules” means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

W. “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.

X. “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.

Y. “Subcontractor” means any third-parties engaged by Contractor to aid in performance of the Work.

Z. “Tax Information” means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.

AA. “Work” means the Goods delivered and Services performed pursuant to this Contract.

BB. “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 Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of the Exhibits. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

5. PAYMENTS TO CONTRACTOR

A. Maximum Amount

Payments to Contractor are limited to the unpaid, obligated balance of the Contract Funds. The State shall not pay Contractor any amount under this Contract that exceeds the Contract Maximum for that term shown on the Signature and Cover Pages for this Contract.

B. Payment Procedures

i. Invoices and Payment

a. The State shall pay Contractor in the amounts and in accordance with the Exhibits.

b. Contractor shall initiate payment requests by invoice to the State, in a form and manner approved by the State. Invoicing is a material component of Contract performance and corresponding Deliverables. Invoices shall be due to the State within 45 days of work performed by the Contractor, unless otherwise stated in the Exhibits hereto. Invoicing shall be done accurately and per any specifications set forth in the Exhibits hereto. Time is of the essence in this regard. If Contractor fails to timely and/or properly invoice the State, the State may not be obligated to pay the bill resulting from said invoice. Failure to timely and/or properly invoice the State is a material breach of this Contract which would be cause for the State to refuse payment and/or terminate the contract on these grounds in whole or in part, at the State's discretion.

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 Contractor 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 Contractor 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 Contract.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th 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. Contractor shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the State in writing of its dispute within 30 days following the earlier to occur of Contractor'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 Contractor 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 Contractor beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Contract 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 Contract Funds the State's obligation to pay Contractor shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Contract shall be made only from Contract Funds, and the State's liability for such payments shall be limited to the amount remaining of such Contract Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may, upon written notice, terminate this Contract, 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 Contract were terminated in the public interest as described in §2.E.

v. Option to Increase Maximum Amount

If the Signature and Cover Pages for this Contract show that the State has the Option to Increase or Decrease Maximum Amount, then the State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon the rates established in this Contract, and increase or decrease the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §21 “Sample Option Letter.” Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Contract. The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract.

6. REPORTING - NOTIFICATION

A. Quarterly Reports.

In addition to any reports required pursuant to §17 or pursuant to any other Exhibit, for any contract having a term longer than three months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State at the time or times specified by the State in this Contract, or, if no time is specified in this Contract, not later than five Business Days following the end of each calendar quarter.

B. Litigation Reporting

If Contractor 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 Contract or may affect Contractor’s ability to perform its obligations under this Contract, Contractor shall, within 5 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 on the Signature and Cover Pages for this Contract.

C. Performance Outside the State of Colorado or the United States, §24-102-206 C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §15 and in a form designated by the State, within 20 days following the earlier to occur of Contractor’s decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform

such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this section shall constitute a Breach of Contract. This section shall not apply if the Contract Funds include any federal funds.

7. CONTRACTOR RECORDS

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the “Contractor Records”). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: (i) the date three years after the date this Contract expires or is terminated, (ii) final payment under this Contract is made, (iii) the resolution of any pending Contract matters, or (iv) if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the “Record Retention Period”).

B. Inspection

Contractor shall permit the State, the federal government, and any duly authorized agent of a governmental entity, to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two 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, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor’s performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor’s performance in a manner that does not unduly interfere with Contractor’s performance of the Work.

D. Final Audit Report

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

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in writing by the State. Contractor 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. If Contractor or any of its Subcontractors will or may receive the following types of data, Contractor or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Contract as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's Principal Representative.

B. Other Entity Access and Nondisclosure Agreements

Contractor 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 Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

Contractor shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Contractor shall provide the State with access, subject to Contractor'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 Contract, Contractor shall return State Records provided to Contractor or



destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, Contractor 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 Contractor can establish that Contractor and its Subcontractors are not the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the 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. The State may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the State. If Contractor cannot produce its analysis and plan within the allotted time, the State, in its discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the State for the actual costs thereof. The State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

E. Data Protection and Handling

Contractor shall ensure that all State Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

F. Safeguarding PII

IF CONTRACTOR OR ANY OF ITS SUBCONTRACTORS WILL OR MAY RECEIVE PII UNDER THIS CONTRACT, CONTRACTOR SHALL PROVIDE FOR THE SECURITY OF SUCH PII, IN A MANNER AND FORM ACCEPTABLE TO THE STATE, INCLUDING, WITHOUT LIMITATION, STATE NON-DISCLOSURE REQUIREMENTS, USE OF APPROPRIATE TECHNOLOGY, SECURITY PRACTICES, COMPUTER ACCESS SECURITY, DATA ACCESS SECURITY, DATA STORAGE ENCRYPTION, DATA TRANSMISSION ENCRYPTION, SECURITY INSPECTIONS, AND AUDITS. CONTRACTOR SHALL BE A "THIRD-PARTY SERVICE PROVIDER" AS DEFINED IN §24-73-103(1)(I), C.R.S. AND SHALL MAINTAIN SECURITY PROCEDURES AND PRACTICES CONSISTENT WITH §§24-73-101 ET SEQ., C.R.S. IN ADDITION, AS SET FORTH IN § 24-74-102, ET. SEQ., C.R.S., CONTRACTOR, INCLUDING, BUT NOT

LIMITED TO, CONTRACTOR'S EMPLOYEES, AGENTS AND SUBCONTRACTORS, AGREES NOT TO SHARE ANY PII WITH ANY THIRD PARTIES FOR THE PURPOSE OF INVESTIGATING FOR, PARTICIPATING IN, COOPERATING WITH, OR ASSISTING WITH FEDERAL IMMIGRATION ENFORCEMENT. IF CONTRACTOR IS GIVEN DIRECT ACCESS TO ANY STATE DATABASES CONTAINING PII, CONTRACTOR SHALL EXECUTE, ON BEHALF OF ITSELF AND ITS EMPLOYEES, THE CERTIFICATION DESCRIBED IN SECTION 21 BELOW ON AN ANNUAL BASIS CONTRACTOR'S DUTY AND OBLIGATION TO CERTIFY AS SET FORTH IN SECTION 21 BELOW SHALL CONTINUE AS LONG AS CONTRACTOR HAS DIRECT ACCESS TO ANY STATE DATABASES CONTAINING PII. IF CONTRACTOR USES ANY SUBCONTRACTORS TO PERFORM SERVICES REQUIRING DIRECT ACCESS TO STATE DATABASES CONTAINING PII, THE CONTRACTOR SHALL REQUIRE SUCH SUBCONTRACTORS TO EXECUTE AND DELIVER THE CERTIFICATION TO THE STATE ON AN ANNUAL BASIS, SO LONG AS THE SUBCONTRACTOR HAS ACCESS TO STATE DATABASES CONTAINING PII.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor 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 Contractor under this Contract. Such a conflict of interest would arise when a Contractor 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 Contract.

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor 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 Contract.

D. Contractor acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Contractor further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Contract.

10. INSURANCE

Contractor 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 Contract to the extent that such insurance policies are required as shown on the Signature and Cover Page for this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State. These insurance requirements shall not be construed as caps or limitations on liability.

A. Workers' Compensation

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

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

C. 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.

D. Protected Information

Liability insurance covering all civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and all loss income or extra expense as a result of actual or alleged breach, violation or infringement of a right to privacy, consumer data protection law,

confidentiality or other legal protection for personal information as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.
- iii. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 10 or fewer individuals or revenues of \$250,000 or less, Contractor shall maintain limits of not less than \$50,000.
- iv. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 25 or fewer individuals or revenues of \$500,000 or less, Contractor shall maintain limits of not less than \$100,000.

E. Professional Liability Insurance

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

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

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

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

H. 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 Contractor and Subcontractors.

I. Primacy of Coverage

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

J. Cancellation

The above 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 Contractor and Contractor shall forward such notice to the State in accordance with §15 within seven days of Contractor's receipt of such notice.

K. Subrogation Waiver

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

L. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §§24-10-101, et seq., C.R.S. (the "GIA"), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintains at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

M. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within seven Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within seven Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within seven Business Days following Contractor's execution of the subcontract. No later than

15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF CONTRACT

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in the Contract in order to protect the public interest of the State; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Contract 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 of Contract

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

a. Obligations and Rights

To the extent specified in any termination notice, Contractor 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, Contractor 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 Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable

and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor 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 Contractor for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Contractor was not in breach or that Contractor'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 Contract had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by Contractor, and the State may withhold payment to Contractor for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Contractor is determined. The State may withhold any amount that may be due Contractor 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 Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor 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 Contractor after the suspension of performance.

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Contractor'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. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, as approved by the State, (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §11 and the dispute resolution process in §14, shall have all remedies available at law and equity.

13. STATE'S RIGHT OF REMOVAL

The State retains the right to demand, at any time, regardless of whether Contractor is in breach, the immediate removal of any of Contractor's employees, agents, or subcontractors from the work whom the State, in its sole discretion, deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the State to be contrary to the public interest or the State's best interest.

14. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in §14.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 CDHS as described in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §24-106-109, C.R.S., and §§24-109-101.1 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.

15. NOTICES AND REPRESENTATIVES

Each individual identified on the Signature and Cover Pages shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Signature and Cover Pages for this Contract or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Signature and Cover Pages for this Contract. 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 section without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

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, Contractor 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 Contractor cannot make any of the assignments required by this section, Contractor 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, Contractor 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 Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not Contractor is under contract with the State at the time, Contractor 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. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire. Contractor 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.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Contract, all State Records, 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 information provided by or on behalf of the State to Contractor are the exclusive property of the State (collectively, “State Materials”). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor’s obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “Contractor Property”). Contractor Property shall be licensed to the State as set forth in this Contract or a State approved license agreement: (i) entered into as exhibits to this Contract; (ii) obtained by the State from the

applicable third-party vendor; or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

17. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Contractor agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, 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”). Contractor’s performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller Policies.

18. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

Unless other restrictions are required elsewhere in this Contract, Contractor shall not enter into any subcontract in connection with its obligations under this Contract without providing notice to the State. The State may reject any such subcontract, and Contractor shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any Work after that Subcontractor’s subcontract has been rejected by the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract 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 Contract.

C. Binding Effect

Except as otherwise provided in §18.A., all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Digital Signatures

If any signatory signs this Contract using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

I. Modification

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

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

Any reference in this Contract 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 Contract.

K. Order of Precedence

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

- i. HIPAA Business Associate Agreement (if any).
- ii. Federal Provisions (if any).
- iii. Colorado Special Provisions in §19 of the main body of this Contract.
- iv. Information Technology Provisions Exhibit (if any).
- v. The provisions of the other sections of the main body of this Contract.
- vi. PII Certification (if any)
- viii. Any other Exhibit(s) shall take precedence in alphabetical order.

L. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

M. Severability

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

N. Survival of Certain Contract Terms

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

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

P. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §18.A., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

Q. Waiver

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

R. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

S. Standard and Manner of Performance

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

T. Licenses, Permits, and Other Authorizations.

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, 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 licenses, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

U. Indemnification

i. Applicability

This entire §18.U does not apply to Contractor if Contractor is a “public entity” within the meaning of the GIA.

ii. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

iii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §8 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §8.

iv. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any Deliverable, Good or Service, software, or Work Product provided by Contractor under this Contract (collectively, “IP Deliverables”), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Contractor’s obligations hereunder shall not extend to the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is **(a)** provided by Contractor or Contractor’s subsidiaries or affiliates; **(b)** specified by Contractor to work with the IP Deliverables; **(c)** reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or **(d)** is reasonably expected to be used in combination with the IP Deliverables.

V. Accessibility

- i. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*,

C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by the Governor’s Office Of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

- ii. Contractor shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor’s failure to comply with §§24-85-101, *et seq.*, C.R.S., or the *Accessibility Standards for Individuals with a Disability* as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.
- iii. The State may require Contractor’s compliance to the State’s Accessibility Standards to be determined by a third party selected by the State to attest to Contractor’s Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

W. Other

- i. Compliance with State and Federal Law, Regulations, & Executive Orders

Contractor shall comply with all State and, if Federal funding is involved, Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Contract.

19. 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), C.R.S., 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 strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

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.

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.

20. DEPARTMENT OF HUMAN SERVICES PROVISIONS

A. Exclusion, Debarment and/or Suspension

Contractor represents and warrants that Contractor, its employees, agents, assigns, or Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a “federal health care program” as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program by any federal or State of Colorado department or agency. If Contractor, its employees, agents, assigns, or Subcontractors, are excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Contract, Contractor shall notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Contractor, the State may immediately terminate this Contract.

B. Emergency Planning

If Contractor provides Work that is an extension of State work performed as part of the State of Colorado Emergency Operations Plan or for a publicly funded safety net program, as defined by C.R.S. § 24-33.5-701 et seq., Contractor shall perform the Work in accordance with the State’s Emergency Operations Plan or continuity of operations plan in the event of an emergency. If requested, Contractor shall provide a plan and reporting information to ensure compliance with the State’s Emergency Operations Plan and C.R.S. § 24-33.5-701 et seq.

C. Restrictions on Public Benefits

If applicable, Contractor shall comply with C.R.S. §§ 24-76.5-101 – 103 exactly as the State is required to comply with C.R.S. §§ 24-76.5-101 – 103.

D. Discrimination

Contractor shall not:

- i. discriminate against any person on the basis of gender, race, ethnicity, religion, national origin, age, sexual orientation, gender identity, citizenship status, education, disability, socio-economic status, or any other identity.
- ii. exclude from participation in, or deny benefits to any qualified individual with a disability, by reason of such disability.

Any person who thinks he/she has been discriminated against as related to the performance of this Contract has the right to assert a claim, Colorado Civil Rights Division, C.R.S. §24-34-301, et seq.

E. Criminal Background Check

Pursuant to C.R.S. §27-90-111 and CDHS Policy VI-2.4, any independent contractor, and its agent(s), who is designated by the Executive Director or the Executive Director's designee to be a contracting employee under C.R.S. §27-90-111, who has direct contact with vulnerable persons in a state-operated facility, or who provides state-funded services that involve direct contact with vulnerable persons in the vulnerable person's home or residence, shall:

- i. submit to and successfully pass a criminal background check, and
- ii. report any arrests, charges, or summonses for any disqualifying offense as specified by C.R.S. §27-90-111 to the State.

Any Contractor or its agent(s), who does not comply with C.R.S. §27-90-111 and CDHS Policy VI-2.4, may, at the sole discretion of the State, be suspended or terminated.

F. Fraud Policy

Contractor shall comply with the current CDHS Fraud Policy.

G. C-Stat - Performance Based Program Analysis and Management Strategy (C-Stat Strategy)

Without any additional cost to the State, Contractor shall collect and maintain Contract performance data, as determined solely by the State. Upon request, Contractor shall provide the Contract performance data to the State. This provision does not allow the State to impose unilateral changes to performance requirements.

H. COVID-19 Pandemic

CDHS operates many facilities across the State and with regard to the COVID-19 Pandemic, Contractor may be subject to local or state public health orders, Department policy, individual facility policy, or any other requirement that could impose additional requirements on the Contractor. If so, Contractor shall promptly comply upon notice.

21. THIRD PARTY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S, if Contractor is to be granted access to Personal Identifying Information through a database or automated network that is not publicly available information, Contractor certifies, and will certify annually, under penalty of perjury that Contractor has not and

will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

If Contractor's agents, employees, assigns or Subcontractors require certification pursuant to § 24-74-105, C.R.S., Contractor shall require annually that its agents, employees, assigns or Subcontractors sign and date the following certifications as applicable, which shall be made available to the State upon request:

For an individual: *Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.*

For and entity/organization: *Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of entity / organization) (the "Organization"), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.*

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.

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SAMPLE OPTION LETTER (IF APPLICABLE)

State Agency Insert Department's or IHE's Full Legal Name	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Contractor Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	Original Contract Number Insert CMS number or Other Contract Number of the Original Contract
Current Contract Maximum Amount	Option Contract Number Insert CMS number or Other Contract Number of this Option
Initial Term State Fiscal Year 20xx \$0.00	Contract Performance Beginning Date Month Day, Year
Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00	
Total for All State Fiscal Years \$0.00	Current Contract Expiration Date Month Day, Year

1. OPTIONS:

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Contract
- C. Option to change the quantity of Services under the Contract
- D. Option to modify Contract rates
- E. Option to initiate next phase of the Contract

2. REQUIRED PROVISIONS:

A. For use with Option 1(A): In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.

B. For use with Options 1(B and C): In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Contract, as amended.

C. For use with Option 1(D): In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to modify the Contract rates specified in Exhibit/Section Number/Letter. The Contract rates attached to this Option Letter replace the rates in the Original Contract as of the Option Effective Date of this Option Letter.

D. For use with Option 1E: In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.

E. For use with all Options that modify the Contract Maximum Amount: The Contract Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

3. Option Effective Date:

The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

<p>STATE OF COLORADO INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE</p> <p><u>SAMPLE ONLY – DO NOT SIGN</u> By: Name & Title of Person Signing for Agency or IHE</p> <p>Date: <u>SAMPLE ONLY – DO NOT SIGN</u></p>	<p>In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p>STATE CONTROLLER</p> <p><u>SAMPLE ONLY – DO NOT SIGN</u> Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p> <p>Option Effective Date: <u>SAMPLE ONLY – DO NOT SIGN</u></p>
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**Exhibit A - Statement of Work
Criminal Justice Early Intervention Microgrants**

**Article 1
Purpose and Background**

1.1 Purpose

Senate Bill (SB) 22-196 establishes the early intervention, deflection, and redirection from the criminal justice system for people with behavioral health needs. The Behavioral Health Administration (BHA) will provide grants to local governments, federally recognized Indian tribes, health-care providers, community-based organizations, and nonprofit organizations to fund programs and strategies that prevent people with behavioral health disorders from becoming involved with the criminal justice system or further penetrating into the criminal justice system and redirect individuals with behavioral health needs from the criminal justice system to appropriate community-based treatment and support services. Local law enforcement agencies are eligible for a grant solely for the purpose of developing or expanding a co-responder community response program, as defined in section C.R.S. 24-32-3501 (8).

1.2 Background

In response to SB 22-196, the Behavioral Health Administration (BHA) is using a Request for Application (RFA) solicitation for the “Early Intervention, deflection, and redirecting from the criminal justice system Grant Program”, as established in section C.R.S. 27-60-402. ([SB 22-196 Bill Text: https://leg.colorado.gov/sites/default/files/20](https://leg.colorado.gov/sites/default/files/20))

**Article 2
Definitions and Acronyms**

Behavioral Health Administration or (BHA) means the Behavioral Health Administration established in C.R.S.27-60-203.

"Local government" means a county, municipality, city and county, or local education provider.

Statement of Work (**SOW**)

**Article 3
Activities and Services**

3.1 Allowable Activities: This grant program provides funding to eligible local governments, federally recognized Indian tribes, health-care providers, community-based organizations, and nonprofit organizations programs and strategies that include, but are not limited to:

- a. Supporting, creating, or expanding pre-arrest early intervention programs, including community-based alternative response programs described in SB 22-1281 and C.R.S. 24-32-3501 (8).
- b. Supporting, creating, or expanding co-responder community response, as defined in SB 22-1281, and C.R.S. 24-32-3501 (8).
- c. Fund enhanced staffing, facility improvements, or security measures for existing crisis walk-in centers, crisis stabilization units, mobile crisis services, or crisis respite services, as described in C.R.S. 27-60-103 (1)(b), and withdrawal management programs at facilities approved pursuant to C.R.S Article 81 of Title 27.
 - i. A crisis walk-in center must use a grant award to enable the crisis walk-in center to accept all behavioral health related first responder drop-offs and provide crisis receiving and stabilization services.
 - ii. Grants awarded for crisis stabilization units, mobile crisis services, crisis respite services, and withdrawal management programs must be used to provide crisis receiving and stabilization services.
- d. Demonstrate the collaboration between community-based organizations and court-appointed counsel who represent indigent clients to facilitate behavioral health screening and assessment and to help clients access behavioral health and other supportive services, particularly during early stages in a criminal proceeding.
- e. Exhibit comprehensive service delivery, including models where multiple partners co-locate or create new resource centers, to ensure swift connection to and receipt of social support services including, but not limited to, counseling, job placement services, housing navigation assistance and support, benefits enrollment, family counseling, substance use treatment, case management services, peer support, and other supportive services. To receive a grant for comprehensive service delivery, the applicant must demonstrate collaboration with local partners that will provide social support services as part of the comprehensive service delivery.
- f. Comprehensive pre-release planning for individuals in a jail or prison with behavioral health needs, to prevent reincarceration.
- g. Support, create, or expand programs to help people who have a pending municipal criminal case attend their court dates and avoid jail for non-appearance, such as through court reminders, ride assistance, or other supportive interventions. A program that operates with grant money must serve a substantial number of people with behavioral health needs.
- h. Establish and operate, or fund an existing, mobile medication-assisted treatment (MAT) unit.

- i. Other innovations or programs aimed at deflecting, redirecting, or otherwise preventing people with behavioral health needs from further penetrating into the criminal justice system.
- j. Provide technical assistance and capacity-building, as identified by the applicant as a component of the program, to support delivery of evidence-based or evidence-informed services along the behavioral health continuum of care.
- k. Capital expenditures related to providing the treatment and services described in subsection (2) of SB 22-196.
 - i. If making capital purchases, the vendor shall track and be able to identify grant-purchased capital assets separate from their own non-grant related capital assets. The Contractor is required to contact and confirm with the BHA in any circumstance where they intend to dispose of the asset(s).

3.2 Work Plan

- a. The Grant Application submitted in the RFA shall also serve as a work plan to be used along with this SOW and followed upon execution of the contract to monitor the grant project performance. The activities and services identified in the Grant Application/ work plan are incorporated into this Contract by reference.
- b. The activities and services identified in the Work Plan will be incorporated into this Contract by reference.
- c. The Contractor shall meet with BHA quarterly to review progress on the work plan.
- d. Communications about project progress and quality, including but not limited to meetings, emails, and onsite visits, shall be expected, and reasonably accommodated by the Contractor.
 - i. The Contractor shall respond to communications within three (3) business days.

3.3 Annual Report. Contractor shall submit an annual report by June 15, describing the use of the grant award, on a template to be provided by the BHA, to cdhs_BHAdeliverables@state.co.us.

3.4 Final Report. Contractor shall submit an annual report by December 15, describing the use of the grant award, on a template to be provided by the BHA, to cdhs_BHAdeliverables@state.co.us

3.5 Quarterly Expenditures Report. The Contractor shall provide the State with information about actual expenditures quarterly in the Expenditures Report template provided by BHA. The report is due to CDHS_BHAdeliverables@state.co.us on the last working day of the month following the end of the quarter (i.e., the last day of October, January, and April) and by July 20th to close the year (contingent upon contract renewal for following fiscal year).

3.6 Law Enforcement Agency Statutory Reporting. If Contractor is the Colorado state patrol or another local law enforcement agency that employs peace officers, it must submit reports to

the Division of Criminal Justice in accordance with C.R.S. 24-31-903(2).

Each grant recipient shall submit a report to the BHA following the expiration of the grant term.

The report must include:

- a. Information about the use of the grant award, including the program operated with the grant award and the number of individuals the program diverted or redirected from the criminal justice system.
- b. The number of individuals served through the program who may have come into contact with the criminal justice system.
- c. The number of individuals referred by the program to treatment; and
- d. Whether the recipient is continuing the program and any other information requested by the state department.

Each grant recipient shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with C.R.S. 24-75-226 (5).

Article 4 Minimum Qualifications

- 4.1 Contractor shall contract with BHA licensed facilities and/ or Licensed individuals, (i.e., Licensed Professional Counselor (LPC), Licensed Addiction Counselor (LAC), Licensed Clinical Social Worker(LCSW)), and any other applicable license to practice psychotherapy in the state of Colorado.
- 4.2 Contractor shall assure that subcontractors will use the Standardized Offender Assessment-Revised (SOA-R) to accurately assess each client for the most appropriate level of care.

Article 5 Deliverables

- 5.1 Criteria for Acceptance of Deliverables
 - a. The BHA will review the Contractor's deliverables in accordance with all specifications stated in this SOW and the Grant Application work plan. Deliverables and overall performance will be monitored, tracked, inspected, and accepted or rejected by the Program Manager and designated State personnel.
 - b. The acceptance of deliverables and satisfactory work performance required herein shall be based on the timeliness, accuracy, and standards as specified in the requirements of this statement of work and the Grant Application work plan.
 - c. Invoice payment is contingent upon timely receipt and approval of required program and fiscal deliverables. Missed or incomplete deliverables will result in an immediate withhold of payment until deliverables are submitted and accepted by the program.

5.2 When submitting reports please briefly describe the metrics you are using for the Reports and Deliverables to demonstrate the impact of your grant on the populations you serve. This may include the specific data points, tools, process, and frequency with which data will be collected and reported.

5.3 Deliverables Table

Deadline	Article where Assigned	Deliverable (emailed to <i>cdhs_BHAdeliverables@state.co.us</i>)
Within ten (10) days following each quarter ended September, December, March, and June	SOW, Article 6	State and Local Fiscal Recovery Funds (SLFRF) Subrecipient Quarterly Report
June 15, 2024	SOW, Article 3.3	Annual Report
December 15, 2024	SOW, Article 3.4	Final Report

*Deadlines occurring after June 30, 2024, are contingent upon contract renewal.

**Deadlines can be changed administratively.

**Article 6
Performance Outcome Measures**

6.1 Contractor shall measure the metrics identified in the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Subrecipient Quarterly Report, as may be amended, on a template to be distributed by the BHA. The SLFRF Subrecipient Quarterly Report is due to cdhs_BHAdeliverables@state.co.us 10 days following the end of each quarter.

**Article 7
Capital Project Requirements**

7.1 If making capital purchases, the Contractor shall track and be able to identify grant-purchased capital assets separate from their own non-grant related capital assets. The Contractor is required to contact and confirm with the BHA in any circumstance where they intend to dispose of the asset(s).

- a. Contractor may obtain, or renovate a facility to house the programming, or purchase capital assets under this grant if included in the approved budget.
- b. For capital projects or investments exceeding \$50,000, Contractor shall draft a capital investment work plan and detailed budget for the expansion or renovation project identifying timelines, necessary zoning, licensing, fire safety, and budgetary execution milestones due 30 calendar days after contract / amendment execution initiating this work by email to [cdhs BHAdeliverables@state.co.us](mailto:cdhs_BHAdeliverables@state.co.us).
- c. Contractor shall coordinate monthly progress calls with the BHA Program Manager regarding the project management timeline and any barriers to completing the project on-time.
- d. Contractor shall notify BHA Program Manager when the capital project is delayed from the agreed upon project work plan. Contractor must receive approval for initiating next steps with a delayed project work plan. Contract must also revise and receive approval for the work plan to accommodate the change in schedule.
- e. Contractor agrees to allow BHA to conduct site visits as necessary.
- f. At the end of each state fiscal year, and at final closeout, the contractor shall provide a property inventory report, in a format provided by BHA, within 30 days by email to [cdhs BHAdeliverables@state.co.us](mailto:cdhs_BHAdeliverables@state.co.us).
- g. Contractor shall provide proof of acceptance and/or operability of the capital investment prior to receipt of final payment for capital item.
- h. During the period of performance, a subrecipient may use property, supplies, or equipment purchased with SLFRF for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the eligible use requirements.
- i. If a recipient changes the use of an asset to an ineligible use or sells the asset prior to the end of the period of performance, then the recipient must follow the disposition procedures in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315.
- j. After the period of performance, the property, supplies, or equipment must be used consistent with the purpose for which it was purchased or for any other eligible purpose in the same category.
- k. If an asset's use shifts within the parameters of the eligible purpose, according to the U.S. Department of Treasury, after the period of performance, no repayment would be required.
- l. If an asset's use shifts outside the parameters of the eligible purpose, according to the U.S. Department of Treasury after the period of performance, then the subrecipient must follow the disposition procedures in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315. Contact BHA Fiscal officials for disposition instructions for items with a per unit fair market value of \$5,000 or more at time of disposition.
- m. Recipients are responsible for being able to substantiate their determinations on whether the use of an asset is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with their award. Subrecipients are not required to seek or obtain the approval of Treasury prior to changing the use within the parameters of the authorized purpose.

- n. The Contractor shall maintain property records for the duration of the award and at minimum three (5) years after final report which at a minimum include:
 - i. a description of the property
 - ii. a serial number or other identification number
 - iii. the source of funding for the property (including the FAIN)
 - iv. who holds title
 - v. the acquisition date(s)
 - vi. cost of the property
 - vii. percentage of Federal participation in the project costs for the Federal award under which the property was acquired.
 - viii. the location, use and condition of the property.
 - ix. Any ultimate disposition data including the date of disposal and sale price of the property.



COLORADO
Behavioral Health
Administration

EXHIBIT B, FY24 ANNUAL BUDGET

Capacity Budget Template					
BHA Program	SB22-196 CRIMINAL JUSTICE EARLY INTERVENTION GRANT				
Contact Information					
Agency Name	Gunnison County		Program Contact Name, Title	Kari Commerford, Director of Juvenile Services	
			Phone	970-642-7393	
			Email	kcommerford@gunnisoncounty.org	
Budget Period	07/01/2023 - 06/30/2024		Fiscal Contract Name, Title	Jody Wise, Accountant	
			Phone	970-641-7679	
			Email	jwise@gunnisoncounty.org	
Project Name	Juvenile Services/Criminal Justice		Date Completed	12/28/2022	

All budget numbers are estimates. Contract billing will be on a cost reimbursement basis for actual expenses incurred.

EXPENDITURE CATEGORIES					
Personnel Services: Salary/Benefits					Annual Budget
Position Title	Description of Work	Gross or Annual Salary	Fringe	Percent of Time on Project	Total Amount Requested from BHA
Director	The Director of Juvenile Services will ensure program implementation, reporting and sustainability of programming	\$ 125,630.00	\$15.00	10%	\$ 12,564.50
Personnel Services-Hourly Employees					Annual Budget
Position Title	Description of Work	Hourly Wage	Hourly Fringe	Total # of Hours on Project	Total Amount Requested from BHA
Bi-lingual Early Intervention Case Manager	Bi-lingual early intervention case manager will provide direct services to youth who are diverted from the criminal justice system and will provide screening, assessment, connection to community support and mental health services and partnership with the school to increase attendance and decrease school-behavioral incidents.30hrs.wk	\$ 32.00	\$8.00	1560.00	\$ 62,400.00
Restorative Justice Lead	The Restorative Justice will facilitate the Restorative Process with individuals involved in the Diversion program, school based restorative needs, and community referred restorative needs. 20hrs. Wk.	\$ 32.00	\$8.00	1040.00	\$ 41,600.00

Early Intervention Program Manager	The Early Intervention Program Manager will programatically manage with Bi-lingual Early Intervention program manager and Restorative Justice/Wraparound Lead and will Coordinate the Creative Solutions problem solving team for youth in conflict. 8 hrs. wk	\$ 48.00	\$10.00	520.00	\$ 30,160.00
Case Manager	Case Management to support youth in conflict – position description and job related duties will be specified by the Creative Solutions team. This position will serve youth and families who do not reach the leave of child protection involvement and are not willingly participating in the Family	\$ 30.00	\$5.00	1040.00	\$ 36,400.00
Total Personnel Services (including fringe benefits)					\$ 183,124.50
Client Costs					Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA	
Client Testing	Cost of drug testing for baseline analysis and one additional test per diversion program. 8 youth served.	\$ 50.00	8	\$ 400.00	
Total Client Costs					\$ 400.00
Contract/Consultants Services (Subawards & Subcontracts)					Annual Budget
Name	Description of Work	Rate	Quantity	Total Amount Requested from BHA	
Gunnison Valley Mentors - Plus Mentor	Plus Mentoring will be offered to youth who are identified as high need for increased protective factors due to risk of multi-system involvement, youth in conflict or adverse childhood experiences.	\$ 30.00	2080	\$ 62,400.00	
Willow Bay Counseling - Psychoeducation	Psychoeducation for individuals and families who are at a higher need for services beyone the Restorative process and those involved in the Juvenile Services department to address mental health needs and divert from the criminal justice system 4 session per youth for 10 youth	\$ 100.00	40	\$ 4,000.00	
Mobile Crisis -Peer	Peers to support mobile crisis and legislative changes (30 hours a week)	\$ 42.00	1560	\$ 65,520.00	
Total Contract Services					\$ 131,920.00
Occupancy					Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA	
Janitorial Services	Janitorial Services for the Juvenile Services Department "Blue House" to serve youth in a truama-informed way - services will be provided outside of the Gunnison County Courthouse.	\$ 425.00	12	\$ 5,100.00	
				\$ -	
				\$ -	
				\$ -	
Total Occupancy					\$ 5,100.00
Operating					Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA	
Law Enforcement support moblie crisis	Updated Motorola hand held radios for Gunnison Sherrif , Police department and Dispatch to increase communication to moblie crisis and increase safety for officers and community.	\$ 4,500.00	52	\$ 234,000.00	
Telephone	\$35 per month for 2 staff for hand held device - no office phones. \$420/annual x 2	\$ 420.00	2	\$ 840.00	

Computer	\$2,500 annual cost for computer and IT services for 2 computers	\$ 2,500.00	2	\$ 5,000.00
Mileage	In-state travel for local, regional and state meetings to address the behavioral health needs of individuals involved in the criminal justice system and to diveret individuals from the criminal justice system. 200mi/month	\$ 0.55	5000	\$ 2,750.00
Training Costs	Costs to cover community member training cost for foster care certification, Trust Based Relational Intervention, Restorative Practices and Trauma-informed Care or youth specific training. 5 community members	\$ 2,500.00	5	\$ 12,500.00
Facilitator	Cost to cover creative solutions facilitator - travel, per diem and consulting fee 3 meetings @ \$5,000 each	\$ 15,000.00	1	\$ 15,000.00
988 Crisis line	Funds to cover the cost for law enforcement and emergency services to add 988 crisis services of vehicles	\$ 35,000.00	1	\$ 35,000.00
				\$ -
				\$ -
				\$ -
Total Operating				\$ 305,090.00
Capital Costs				Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA
Renovations	Funds to support renovations for Behavioral Health services to be co-located at the old library location. This space will provide ease of access for basic need support for individuals with behavioral health needs. This will also allow for Grasp, GCSAPP and the Health Coalition to meet	\$ 89,565.50	1	\$ 89,565.50
Trauma informed space	Funds to increase juvenile services capacity to serve youth in a space outside of the courthouse. Cost to update garage and basement and first floor level of the building to support youth services	\$ 30,000.00	1	\$ 30,000.00
Total Capital Costs				\$ 119,565.50
TOTAL DIRECT COSTS (TDC)				\$ 745,200.00
Exclusions from Indirect Cost Base expenses per OMB 2CFR § 200				
Subaward in excess of \$25,000				\$ 131,920.00
Rent				
Equipment (over \$5000)				
Other Unallowable Expenses (not allowed a direct cost) such as land, real estate purchase, etc.				
Total Expenses per OMB 2CFR § 200				\$ 131,920.00
MODIFIED TOTAL DIRECT COSTS (MTDC)				\$ 613,280.00
Indirect Costs				Annual Budget
Item	Description of Item	Percentage	Total Amount Requested from BHA	
Indirect Costs	10% indirect	10%	\$ 61,328.00	
Total Indirect				\$ 61,328.00
Grand Total Expenses				\$ 806,528.00

Match Requirement Chart: Size of Organization & Award amount		
Match Requirement	Organization Annual Budget Size	Percentage Match Requirement on grant award

SELECT YOUR MATCH AMOUNT

large org.	\$20,000,000 or more	5%	5.0%
small	less than \$20,000,000	2.5%	
Award of \$50,000 or less	any size	0%	

MATCH AMOUNT REQUIRED

\$	40,326.00
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Match Amount Required must be listed below in Revenue Offset and/ or Matching Funds

Revenue Offset	Annual Budget
Client Services	
Medicaid Fee for Service Cash	
Medicaid Capitation Encounters <i>valued at the Cost Per Unit of Service per unit Cost Report of Negotiated Rates received from Regional Accountable Entity (RAE)*</i>	
BHA Indigent Encounters**	
3rd Party Insurance Cash Receipts	
Medicare Cash	
Self-Pay/Client Fees	
Cash from other Sources: (Specify below)	
Total Client Services	\$ -
*The rate that your entity is receiving must be used to offset costs in this area	
**Encounters valued using the current year's fee for services schedule issued by BHA and not to exceed contract amount	
Matching Funds	
Contracts and Grants	
Non-Governmental Contracts	
Other State Revenue/Accrual	
Federal Grant Funds/Accrual	\$ 35,030.00
Local Funds/Accrual	\$ 49,987.00
Private Grant Funds/Accrual	
Public Support	
Private Support	
In-Kind Donations	
Other Funds (Specify below)	
Total Contracts and Grants	\$ 85,017.00
Grand Total Revenue Offset	\$ 85,017.00
Net Cost	\$ 721,511.00

The Parties may mutually agree, in writing, to modify the Budget administratively using an BHA Budget Reallocation form

Exhibit C Miscellaneous Provisions

I. General Provisions and Requirements

A. Finance and Data Protocols

The Contractor shall comply with the Behavioral Health Administration's (BHA) most current Finance and Data Protocols and the Behavioral Health Accounting and Auditing Guidelines, made a part of this Contract by reference.

B. Marketing and Communications

The Contractor shall comply with the following marketing and communications requirements:

1. Reports or Evaluations. All reports or evaluations funded by BHA must be reviewed by BHA staff, including program, data, and communications, over a period of no fewer than 15 business days. The Contractor may be asked to place a report or evaluation on a BHA template and the report or evaluation is required to display the BHA logo. The Contractor shall submit the finished document to BHA in its final format and as an editable Word or Google document.
2. Press Releases. All press releases about work funded by BHA must note that the work is funded by the Colorado Department of Human Services, Behavioral Health Administration. Press releases about work funded by BHA must be reviewed by BHA program and communications staff over a period of no fewer than five business days.
3. Marketing Materials. Contractor shall include the current Colorado Department of Human Services, Behavioral Health Administration logo on any marketing materials, such as brochures or fact sheets, that advertise programs funded by this Contract. Marketing materials must be approved by the Contract's assigned BHA program contract over a period of no fewer than 5 business days.
4. All Other Documents. All other documents published by the Contractor about its BHA-funded work, including presentations or website content, should mention the Colorado Department of Human Services, Behavioral Health Administration as a funder.
5. Opinion of BHA. BHA may require the Contractor to add language to documents that mention BHA reading: "The views, opinions and content expressed do not necessarily reflect the views, opinions or policies of the Colorado Department of Human Services, Behavioral Health Administration."

C. Start-up Costs

If the State reimburses the Contractor for any start-up costs and the Contractor closes the program or facility within three years of receipt of the start-up costs, the Contractor shall reimburse the State for said start-up costs within sixty (60) days of the closure. The Contractor is not required to reimburse the State for start-up costs if the facility or program closure is due to BHA eliminating funding to that specific program and/or budget line item.

D. Immediate Notification of Closures / Reductions in Force

If the Contractor intends to close a facility or program, it shall notify the BHA Contracts Unit at least five business days prior to the closure. Similarly, if the Contractor, or any sub-contractor provider, intends to conduct a reduction in force which affects a program funded through this contract, the Contractor shall notify the BHA Contracts Unit at least five business days prior to the layoffs.

E. Licensing and Designation Database Electronic Record System (LADDERS)

The Contractor shall use LADDERS (<http://www.colorado.gov/ladders>) as needed and/or as required by rule to submit applications for BHA licensing and designation, keep current all provider directory details, and submit policies and procedures.

F. Contract Contact Procedure

The Contractor shall submit all requests for BHA interpretation of this Contract or for amendments to this Contract to the BHA Contract Manager.

G. The Contractor shall comply with all the provisions and requirements of RFP IBEH 2023000168.

H. Continuity of Operations Plan

1. In the event of an emergency resulting in a disruption of normal activities, BHA may request that Contractor provide a plan describing how Contractor will ensure the execution of essential functions of the Contract, to the extent possible under the circumstances of the inciting emergency (“Continuity of Operations Plan” or “Plan”).
2. The Continuity of Operations Plan must be specific and responsive to the circumstances of the identified emergency.
3. BHA will provide formal notification of receipt of the Continuity of Operations Plan to the Contractor.
4. The Continuity of Operations Plan will not impact or change the budget or any other provisions of the contract, and Contractor's performance will be held to the same standards and requirements as the original Contract terms, unless otherwise specified in the Continuity of Operations Plan.
5. Any submitted Continuity of Operations Plan will be ratified as an amendment to the contract as soon as possible.
6. Contractor shall communicate, in a format mutually agreed upon by BHA and Contractor staff, on a frequency that supports the monitoring of services under the Continuity of Operations Plan. If adjustments are needed to the Plan, such adjustments will be made in writing and accompanied by written notice of receipt from BHA.
 - a. As part of the BHA/Contractor communication during the emergency,

Contractor and BHA will evaluate whether the emergency has resolved such that normal operations may be resumed.

- b. Contractor and BHA will agree in writing when the emergency is sufficiently resolved and agree to a closeout period that is four weeks or less.
- c. BHA will submit notice accepting the termination of the Continuity of Operations Plan to the Contractor as the final action for any qualifying emergency response.

I. Cultural Responsiveness in Service Delivery

1. The Behavioral Health Administration expects funding dollars to support equity in access, services provided, and behavioral health outcomes among individuals of all cultures, gender identities, sexual orientations, races, and ethnicities. Accordingly, Contractors should collect and use data to: (1) identify priority populations vulnerable to health disparities encompassing the contractor's entire geographic service area (e.g., racial, ethnic, limited English speaking, indigenous, sexual orientation, gender identity groups, etc.) and (2) implement strategies to decrease the disparities in access, service use, and outcomes—both within those subpopulations and in comparison to the general population.
2. One strategy for addressing health disparities is the use of the recently revised National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (CLAS). The U.S. Department of Health and Human Services (HHS) Think Cultural Health website (<https://thinkculturalhealth.hhs.gov>) also features information, continuing education opportunities, resources, and more for health and health care professionals to learn about culturally and linguistically appropriate services, or CLAS.
3. Contractors providing direct behavioral health prevention, treatment, or recovery services shall submit one of the following two documents to cdhs_BHAdeliverables@state.co.us by August 31 annually:
 - a. If a provider has completed an equity plan that identifies how they will address health equity, they can submit the plan or;
 - b. Submit a completed CLAS checklist that follows this HHS format: <https://thinkculturalhealth.hhs.gov/assets/pdfs/AnImplementationChecklistfortheNationalCLASStandards.pdf>

- J. Prohibition on Marijuana. Funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational

new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

K. Monitoring Requirements

If the Contractor is a subrecipient of federal funds, the Contractor shall comply with monitoring requirements indicated by the Contractor's risk level determined by the subrecipient risk assessment form completed by Contractor, which may include but are not limited to:

- Monthly/quarterly monitoring calls
- Invoice supporting documentation - e.g., timesheets, logs of travel, or wraparound service costs.
- Routine programmatic reports
- Technical assistance and training
- Site visits

II. Use of Subcontracts.

- A. Services described in this Contract may be performed by Contractor or by a subcontractor, except where this Contract states explicitly that a service must not be subcontracted.
- B. Contractor shall ensure that its subcontractors perform to the terms of this Contract as set forth in the Contract provisions.
- C. Any subcontract for services must include, at a minimum, the following:
1. A description of each partner's participation
 2. Responsibilities to the program (policy and/or operational)
 3. Resources the subcontractor will contribute, reimbursement rates, services to be included and processes in collecting and sharing data and the most recent CDHS version of the HIPAA Business Associates Addendum, if this Contract contains the HIPAA Business Associates Addendum/Qualified Service Organization Addendum as an exhibit.
 4. A copy of this Contract and all its terms and conditions.
- D. The Contractor shall provide to BHA a copy of any proposed subcontract between the Contractor and any potential provider of services to fulfill any requirements of this Contract, to cdhs_BHAdeliverables@state.co.us within 30 days of subcontract execution.
- E. BHA reserves the right to require Contractor to renegotiate subcontracts where necessary to adhere to the terms of this Contract.
- F. Subcontractor/Partnership Termination. In the event where partnerships with a subcontractor such as a treatment provider is terminated, the Contractor shall transition to a new partnership no later than 30 days from termination to ensure continuity of care for all participants of the program.

III. Financial Requirements

A. Funding Sources

The Contractor shall identify all funds delivered to subcontractors as state general fund, state cash funds, or federal grant dollars in **Exhibit B, "Budget."** **If federal grant dollars,** the Contractor shall communicate the CFDA number to all sub-contractors in their sub-contracts.

B. Program Income

Program income generated through grant funded programs are additive funding that must be utilized for a consistent purpose as outlined in 2 CFR 200.307(e)(2). If Contractor charges and receives fees for services, or otherwise receives income associated with the sponsored program, this is considered program income and is required to be tracked and managed in accordance with the conditions of the award.

C. Budget Reallocations

1. The Contractor may reallocate funds between the budget categories of this contract, up to 10% of the total contract amount, upon written approval by BHA, without a contract amendment. Any allowable reallocation is still subject to the limitations of the Not to Exceed and the Maximum Amount Available per Fiscal Year.

D. Payment Terms

1. The Contractor shall invoice monthly for services, no later than the 20th of the month following when services are provided.
2. The Contractor shall utilize the invoice template(s) provided by BHA. Contractor shall comply with the invoicing instructions contained within the invoice template.
3. All payment requests shall be submitted electronically to CDHS_BHApayment@state.co.us
4. Any requests for payment received after September 10th for the prior state fiscal year cannot be processed by BHA.
5. The State will make payment on invoices within 45 days of receipt of a correct and complete invoice to CDHS_BHApayment@state.co.us. Consequently, the Contractor must have adequate solvency to pay its expenses up to 45 days after invoice submission to the State.



EXHIBIT D

HIPAA BUSINESS ASSOCIATE / 42 PART 2

QUALIFIED SERVICE ORGANIZATION AGREEMENT

This HIPAA Business Associate/42 Part 2 Qualified Service Organization Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

1. PURPOSE

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information ("PHI"). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111-5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

2. DEFINITIONS

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- a. Business Associate. “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103 and, and shall refer to Contractor.
- b. Covered Entity. “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.
- c. Information Technology and Information Security. “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a. Permitted Uses and Disclosures.

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate's obligations under the Contract.
- i. To the extent Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.
- ii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
 - A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
 - B. the person notifies Business Associate of any Breach involving PHI of which it is aware.
- iii. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

d. Minimum Necessary. Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

e. Impermissible Uses and Disclosures.

- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
- ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

f. Business Associate's Subcontractors.

- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.

- ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.
 - iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.
- g. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>.
- h. Access to PHI. Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.
- i. Amendment of PHI.
 - i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
 - ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.
- j. Accounting Rights. Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.
- k. Restrictions and Confidential Communications.
 - i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
 - A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
 - B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.
 - ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.
 - iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.
- l. Governmental Access to Records. Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.

m. Audit, Inspection and Enforcement.

- i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
- ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

n. Appropriate Safeguards.

- i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
- ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
- iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
- iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

o. Safeguard During Transmission.

- i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.
- ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

p. Reporting of Improper Use or Disclosure and Notification of Breach.

- i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is

required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.

- ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
 - iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
 - iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.
- q. Business Associate's Insurance and Notification Costs.
- i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:
 - A. loss of PHI data;
 - B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and
 - C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.
 - ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).
 - iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.
 - iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.
- r. Subcontractors and Breaches.
- i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.

- ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.
- s. Data Ownership.
 - i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
 - ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.
- t. Retention of PHI. Except upon termination of this Agreement as provided in Section 5, below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 3.h, above, for a period of six years.

4. OBLIGATIONS OF COVERED ENTITY

- a. Safeguards During Transmission. Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.
- b. Notice of Changes.
 - i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.
 - ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

5. TERMINATION

- a. Breach.
 - i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
 - ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

b. Effect of Termination.

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.
- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6. INJUNCTIVE RELIEF

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

7. LIMITATION OF LIABILITY

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

8. DISCLAIMER

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

9. CERTIFICATION

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

10. AMENDMENT

- a. Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
- i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.
 - ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
 - iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.
 - iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:
 - A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
 - B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.
- b. Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

11. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may

include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

12. INTERPRETATION AND ORDER OF PRECEDENCE

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

13. SURVIVAL

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.

APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is s an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

1. PURPOSE

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

2. ADDITIONAL TERMS

- a. Additional Permitted Uses. In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
 - i. Reserved.
- b. Additional Permitted Disclosures. In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
 - i. Reserved.
- c. Approved Subcontractors. Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
 - i. Reserved.
- d. Definition of Receipt of PHI. Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
 - i. Reserved.
- e. Additional Restrictions on Business Associate. Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
 - i. Reserved.
 - ii. The Associate:
 - A. Acknowledges this agreement qualifies as a Qualified Service Organization Addendum as the agreement is between a Substance Abuse Program (“Program”) and a Qualified Service Organization as defined by 42 C.F.R. Part 2.

- B. Acknowledges that in receiving, transmitting, transporting, storing, processing or otherwise dealing with any information received from the Program identifying or otherwise relating to the patient in the Program (“protected information”), it is fully bound by the provisions of the federal regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2. Protected information encompasses protected health information (“PHI”) and references to PHI shall be understood to include protected information.
 - C. Agrees to resist any efforts in judicial proceeding to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse patient Records, 42 C.F.R. Part 2.
 - D. Agrees that if the Associate enters into a contract with any agent or subcontractor, the agent or subcontractor will agree to comply with 42 C.F.R. Part 2.
 - E. Agrees to ensure that any agent or subcontractor to whom the Associate provides protected information received from the Program, or creates or receives on behalf of the Program, agrees to the same restrictions and conditions that apply through this agreement to the Associate with respect to such information.
 - F. Agrees that redisclosure of protected information is prohibited unless permitted by 42 C.F.R. Part 2.
- f. Additional Terms. Business Associate agrees to comply with the following additional terms under the Agreement.
- i. Reserved.

EXHIBIT E - Supplemental Provisions for Federal Awards

For the purposes of this Exhibit only, Contractor is also identified as “Subrecipient.” This Contract 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 for Federal Awards, the Special Provisions, the Contract or any attachments or exhibits incorporated into and made a part of the Contract, the Supplemental Provisions for Federal Awards shall control. In the event of a conflict between the Supplemental Provisions for Federal Awards and the FFATA Supplemental Provisions (if any), and/or exhibit regarding SLFRF Federal Provisions, the terms re FFATA and/or SLFRF shall control. If the source of the funding of the Contract is a grant, these Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

1) Federal Award Identification

- i. Subrecipient: **GUNNISON COUNTY COLORADO GOVERNMENT**
- ii. Subrecipient Unique Entity ID number: **UEI #: NSN9FAGKEDJ9**
- iii. The Federal Award Identification Number (FAIN) is **SLFRP0126**;
- iv. The Federal award date is **May 18, 2021**.
- v. The subaward period of performance start date is **July 1, 2023** and end date is **June 30, 2024**;
- vi. Federal Funds:

Contract or Fiscal Year	Amount of Federal funds obligated by this Contract	Total amount of Federal funds obligated to the Subrecipient	Total amount of the Federal Award committed to Subrecipient by CDHS
FY24 ARPA	\$721,511.00	\$721,511.00	\$721,511.00

- vii. Federal award project description: **To establish and expand services to divert and deflect individuals with behavioral health needs away from the criminal justice system and into appropriate treatment.;**
The name of the Federal awarding agency is **Federal awarding agency**; the name of the pass-through entity is the State of Colorado, Department of Human Services (CDHS); and the contact information for the awarding official is : Steven Fry, Division of Grants Management, SAMHSA, 7-1109, 1 Choke Cherry Road, Rockville, MD 20857, 240-276-1422, Steven.Fry@samhsa.hhs.gov;
- viii. The Catalog of Federal Domestic Assistance (CFDA) number 21.027, name is American Rescue Plan Act, and dollar amount is \$721,511.00.
- ix. This award **is not** for research & development;

- x. The indirect cost rate for the Federal award (including if the de minimis rate is charged per 2 CFR §200.414 Indirect (F&A) costs) is pre-determined based upon the State of Colorado and CDHS cost allocation plan.
- 2) All requirements imposed by CDHS on Subrecipient so that the Federal award is used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award, are stated **Exhibits E & F**.
- 3) Any additional requirements that CDHS imposes on Subrecipient in order for CDHS to meet its own responsibility to the Federal awarding agency, including identification of any required financial and performance reports, are stated in **Exhibits A, B, C, and D**.
- 4) Subrecipient's approved indirect cost rate is **10%**.
- 5) Subrecipient must permit CDHS and auditors to have access to Subrecipient's records and financial statements as necessary for CDHS to meet the requirements of 2 CFR §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 this Part.
- 6) The appropriate terms and conditions concerning closeout of the subaward are listed in Section 16 of this Exhibit and N/A.
- 7) **Performance and Final Status.** Subrecipient shall submit all financial, performance, and other reports to CDHS no later than **10** calendar days after the period of performance end date or sooner termination of this Contract containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.
- 8) **Matching Funds**

If a box below is checked, the accompanying provision applies.

- i. Subrecipient is not required to provide matching funds.
- ii. Subrecipient shall provide matching funds as stated in **Exhibit B**. Subrecipient shall have raised the full amount of matching funds prior to the Effective Date and shall report to CDHS regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any matching funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Contract by the authorized representatives of the Subrecipient and paid into the Subrecipient's treasury or bank account. Subrecipient represents to CDHS that the amount designated as matching funds has been legally appropriated for the purposes of this Contract by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Contract irrevocably pledge present cash reserves for payments in future fiscal years, and this Contract is not intended to create a multiple-fiscal year debt of the Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies.

1. DEFINITIONS.

- 1.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 1.1.1. "Award" means an award of Federal financial assistance, and the Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 1.1.1.1. Awards may be in the form of:
 - 1.1.1.1.2. Grants;
 - 1.1.1.1.3. Contracts;

- 1.1.1.1.4. Cooperative Contracts, which do not include cooperative research and development Contracts (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.1.1.5. Loans;
- 1.1.1.1.6. Loan Guarantees;
- 1.1.1.1.7. Subsidies;
- 1.1.1.1.8. Insurance;
- 1.1.1.1.9. Food commodities;
- 1.1.1.1.10. Direct appropriations;
- 1.1.1.1.11. Assessed and voluntary contributions; and
- 1.1.1.1.12. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.
- 1.1.1.1.13. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.
 - 1.1.1.2. Award *does not* include:
 - 1.1.1.2.1. Technical assistance, which provides services in lieu of money;
 - 1.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
 - 1.1.1.2.3. Any award classified for security purposes; or
 - 1.1.1.2.4. 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).
- 1.1.2. “Contract” means the Contract to which these Federal Provisions are attached and includes all Award types in § of this Exhibit.
- 1.1.3. “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.
- 1.1.4. “Unique Entity ID number” or “UEI” is the Unique Entity ID number established by the federal government in the Unique Entity ID System to uniquely identify a business entity. For more, see: www.sam.gov.
- 1.1.5. “Entity” means:
 - 1.1.5.1. If the source of funding is a Grant:
 - 1.1.5.1.1. a Non-Federal Entity;
 - 1.1.5.1.2. a foreign public entity;
 - 1.1.5.1.3. a foreign organization;
 - 1.1.5.1.4. a non-profit organization;
 - 1.1.5.1.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 1.1.5.1.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 1.1.5.1.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 1.1.5.1.8. a foreign for-profit organization (for 2 CFR part 170 only).

- 1.1.5.2. If the source of funding is not a Grant:
 - 1.1.5.2.1. all of the following as defined at 2 CFR part 25, subpart C;
 - 1.1.5.2.2. A governmental organization, which is a State, local government, or Indian Tribe;
 - 1.1.5.3. a foreign public entity;
 - 1.1.5.4. a domestic or foreign non-profit organization;
 - 1.1.5.5. a domestic or foreign for-profit organization; and
 - 1.1.5.6. a Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 1.1.7. If the source of funding is a Grant, “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1. If the source of funding is not a Grant, “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.1.8. “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.”
- 1.1.9. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 1.1.10. If the source of funding is a Grant, “Grant” as used herein is the Contract to which these Federal Provisions are attached.
- 1.1.11. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached if the source of funding is a Grant.
- 1.1.12. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 1.1.13. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 1.1.13.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 1.1.13.2. Is not organized primarily for profit; and
 - 1.1.13.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 1.1.14. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 1.1.15. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 1.1.16. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award, or, if the source of funding is a Grant it is that agency or institution identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 1.1.17. “Subaward” means an award by a Prime 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 Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101 or 2 CFR 200.38, as applicable. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

- 1.1.18. “Subrecipient” or, if the source of funding is a Grant, “Subgrantee” 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. The term does not include an individual who is a beneficiary of a federal program.
- 1.1.19. “Subrecipient Parent UEI Number” means the subrecipient parent organization’s 12-digit Unique Entity ID System (UEI) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.1.20. “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>.
- 1.1.21. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a), as applicable) and includes the following:
- 1.1.21.1. Salary and bonus;
 - 1.1.21.2. 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;
 - 1.1.21.3. 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;
 - 1.1.21.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.1.21.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.1.21.6. 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.
- 1.1.22. “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 may also be referred to as FFATA.
- 1.1.23. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which, unless the source of funding is a Grant, 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.
- 1.1.24. “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.

- 2.1. Contractor/Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, including, but not limited to, all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Contractor/Grantee 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 UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.

- 3.1. SAM. Contractor/Grantee shall maintain the currency of its information in SAM until the Contractor/Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Contractor/Grantee 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. UEI. Contractor/Grantee shall provide its UEI number to its Prime Recipient, and shall update Contractor's/Grantee's information in www.sam.gov at least annually after the initial registration, and more frequently if required by changes in Contractor's/Grantee's information.

4. TOTAL COMPENSATION.

- 4.1. Contractor/Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more if the source of funding is a Grant, or otherwise \$25,000 or more if the source of funding is not a Grant; and
 - 4.1.2. In the preceding fiscal year, Contractor/Grantee received:
 - 4.1.2.1. 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
 - 4.1.2.2. \$30,000,000 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 if the source of funding is a Grant or otherwise \$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 if the source of funding is not a Grant; and
 - 4.1.2.3. 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.

- 5.1. If Contractor/Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Contract/Grant price. The reporting requirements in this Exhibit 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/Grant and shall become part of Contractor's/Grantee's obligations under this Contract/Grant.

6. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING.

- 6.1. If the source of funding is a Grant, Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements.

- 6.2. If the source of funding is not a Grant, Reporting requirements in §8 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.
- 6.3. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

7. SUBRECIPIENT REPORTING REQUIREMENTS.

- 7.1. If Contractor/Grantee is a Subrecipient, Contractor/Grantee shall report as set forth below.
 - 7.1.1. To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number (FAIN) assigned by a Federal agency to a Prime Recipient no later than the end of the month following the month in which the Subaward was made:
 - 7.1.1.1. Subrecipient UEI Number;
 - 7.1.1.2. Subrecipient UEI Number if more than one electronic funds transfer (EFT) account;
 - 7.1.1.3. Subrecipient parent's organization UEI Number;
 - 7.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip (+ 4 if source of funding is a Grant or as otherwise directed per SAM directives for proper reporting), and Congressional District;
 - 7.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 7.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
 - 7.1.2. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract/Grant, the following data elements:
 - 7.1.2.1. Subrecipient's UEI Number as registered in SAM.
 - 7.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. PROCUREMENT STANDARDS.

- 8.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 8.2. If the source of funding is a Grant: Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

- 8.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the 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.

9. ACCESS TO RECORDS.

- 9.1. A Subrecipient shall permit Recipient/Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.311-200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

10. SINGLE AUDIT REQUIREMENTS.

- 10.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the 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.

10.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The 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 Prime 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.

10.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the 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.

10.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart 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 2 CFR 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 Subpart F-Audit Requirements.

11. CONTRACT/GRANT PROVISIONS FOR SUBRECIPIENT CONTRACTS.

- 11.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Contractors/Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Contract/Grant.

- 11.1.1. [Applicable to federally assisted construction contracts.] 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.
- 11.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
- 11.1.3. Rights to Inventions Made Under a contract/grant or agreement. If the Federal Award meets the definition of “funding agreement”/ “funding Contract” under 37 CFR 401.2 (a) and the Prime Recipient or 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,”/”funding Contract”, the Prime Recipient or 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 Federal Awarding Agency.
- 11.1.4. 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 awardee(s) 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).
- 11.1.5. 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.
- 11.1.6. 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.
- 11.1.7. Never contract with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never contract with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 11.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12. CERTIFICATIONS.

- 12.1. Unless prohibited by Federal statutes or regulations, Recipient/Prime 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.

13. EXEMPTIONS.

- 13.1. These Federal 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.
- 13.2. A Contractor/Grantee 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.

14. EVENT OF DEFAULT AND TERMINATION.

- 14.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract/Grant and the State of Colorado may terminate the Contract/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 Contract/Grant, at law or in equity.
- 14.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
 - 14.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
 - 14.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
 - 14.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
 - 14.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
 - 14.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT END



EXHIBIT F - SLFRF SUBRECIPIENT PROVISIONS (CDHS)

This Exhibit and the Appendices hereto apply regarding the use of State and Local Fiscal Recovery Funds (SLFRF) to comply with requirements established by the U.S. Department of Treasury and the Colorado Department of Personnel & Administration, Office of the State Controller re the Colorado Department of Human Services (CDHS).

This SLFRF Provisions Exhibit may supplement other Exhibit(s) to the instant Agreement. In the event that terms on prior Exhibit(s) to the instant Agreement conflict with this SLFRF Provisions Exhibit, this Exhibit shall control and take precedence.

The Contractor/Vendor/Other Agency entity with which the Colorado Department of Human Services (CDHS) is contracting per this Agreement may be referred to as “Subrecipient” herein, the designation per controlling law and mandates. This “Subrecipient” designation shall apply in this context notwithstanding prior definition(s) of any entity to this agreement as “Contractor” or any other title.

Subrecipient must agree to and comply with the terms of these SLFRF Provisions in order to receive and use these funds. Subrecipient shall execute not only the instant Agreement, but also specifically the Certification Agreement appendix to the instant Exhibit. A failure to also separately execute the Certification Agreement appendix hereto shall not relieve Subrecipient of the rules/obligations set forth herein; such a clerical error must be promptly remedied upon discovery by notifying the CDHS office/program contact, who can then assist with the logistics of mandatory signing, which shall retroactively apply.

In the event that Subrecipient is/was in receipt of SLFRF funding from CDHS prior to execution of the instant Exhibit, Subrecipient understands that its obligations set forth herein with regards to that funding shall retroactively apply.

The regulations and requirements surrounding receipt and use of SLFRF funding is an evolving subject matter as established by the U.S. Department of Treasury and put into established policy by the Colorado Department of Personnel & Administration, Office of the State Controller for use with CDHS Agreements. As such, Subrecipient agrees to execute any additional Agreements/Amendments as required by CDHS to establish and/or update these procedures. Subrecipient agrees to accept written notice from CDHS of updates to these requirements and to comply with same forthwith, even if prior to or without a formal Amendment to the Agreement to update this Exhibit or the rules/requirements established herein. Regardless, if CDHS requests that

Subrecipient execute an Amendment to formalize implementation of and/or acknowledgment of updates to this Exhibit, Subrecipient shall promptly comply.

Subrecipient agrees to stay abreast of and comply with the most current iterations of the requirements re SLFRF funding set forth on <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates Tab).

APPENDIX 1 TO SLFRF EXHIBIT- BUDGET SUPPLEMENT

1. BUDGET BY US TREASURY EXPENDITURE CATEGORY

1.1 Expenditure Categories identified in this Appendix will determine what is reported on as outlined in the all following Appendices to this Exhibit.

Project Number	Project Title	US Treasury Expenditure Category Number and Name	Budget
PHI300	Criminal Justice Intervention, Detection & Redirection Grant Program	1.14 Other Public Health Services	\$721,511.00
Total			\$721,511.00

2. BUDGET BY FUNCTION

3. EXPENDITURE CATEGORY MODIFICATIONS

1.1 Increases or decreases in any Expenditure Category must be requested and approved by the State Agency by using the SLFRF Expenditure Modification Form. This form can be found at: <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates Tab). *In no event may this be used to modify the overall total of this Agreement or otherwise any non SLFRF expenditures.*

APPENDIX 2 TO SLFRF EXHIBIT- FEDERAL PROVISIONS SUPPLEMENT

1. APPLICABILITY OF PROVISIONS.

1.1. The Grant to which these Federal 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 Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.

- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.
 - 2.1.5. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
 - 2.1.6. "Grant" means the Grant to which these Federal Provisions are attached.
 - 2.1.7. "Grantee" means the party or parties identified as such in the Grant to which these Federal Provisions are attached.

- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- 2.1.9.2. Is not organized primarily for profit; and
- 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime 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 Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” 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 does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “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>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
- 2.1.15.2. 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;

- 2.1.15.3. 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;
- 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
- 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
- 2.1.15.6. 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.
- 2.1.16. “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.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. 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.
- 2.1.18. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee's information in SAM.gov at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 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.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
- 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Appendix 4 to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project’s response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan *(not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36)*
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning *(Federal guidance may change this requirement in July 2022)*
- b) Number of families served by home visiting *(Federal guidance may change this requirement in July 2022)*

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
- b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity**Payroll for Public Health and Safety Employees (EC 3.1)**

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay**All Premium Pay Projects**

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county's average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects**All Infrastructure Projects**

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report
 - ii. Project labor agreement certification or project workforce continuity plan
 - iii. Prioritization of local hires
 - iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
- i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
 - iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs

- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient Unique Entity ID;
 - 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's Unique Entity ID as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker

receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.

8.1.3.7. For infrastructure projects (EC 5) or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data).

8.1.3.7.1. For projects over \$10 million:

8.1.3.7.1.1. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

8.1.3.7.1.2. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready

access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.

8.1.3.7.1.3. Whether the project prioritizes local hires.

8.1.3.7.1.4. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Appendix 5– SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.

9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.

- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the 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.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the 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.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The 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 Prime 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.

- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the 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.

11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart 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 2 CFR 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 Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.

12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of “federally assisted construction Agreement” 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 Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.

12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement 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,” the Prime Recipient or 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, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.

- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees 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).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in 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.
- 12.1.6. 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 Agreement, 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.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in separate Appendix hereto and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime 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.

14. EXEMPTIONS.

- 14.1. These Federal 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.
- 14.2. A Grantee 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.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado 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.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
 - 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

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APPENDIX 3 TO SLFRF EXHIBIT- SUBRECIPIENT CERTIFICATION AGREEMENT

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State’s separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization’s obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name: _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this subaward is shown on page one of this Agreement. Subrecipient may use funds to cover eligible costs incurred, as set forth in Treasury's implementing regulations, during this period of performance.

Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller. The State will provide notice of such additional reporting requirements via separate Appendix hereto – Reporting Modification Form.

4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.

Cost Sharing. Cost sharing or matching funds are not required to be provided by

7. Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.
9. Compliance with Applicable Law and Regulations.
 - a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

- vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any

10. additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
 - a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
 - a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
 - b. The acceptance of this award by Subrecipient does not in any way establish

an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for Agreement or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractors to adopt and enforce policies that ban text messaging while driving, and

Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall

initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42

U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include

investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

APPENDIX 4 TO SLFRF EXHIBIT- SLFRF SUBRECIPIENT QUARTERLY REPORT REQUIREMENTS

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at: <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates Tab).
- 1.2 The requirements set forth in this Appendix 4 do not apply if the instant Agreement is between two Colorado State Agencies.

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Approval for Sawtooth Phase 2 Design-Build Agreement

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Design contract with not to exceed for design. Contract will become Guaranteed Maximum Price agreement upon execution of the GMP amendment

Fiscal Impact: 337,870

Submitted by: John Cattles

Submitter's Email Address: jcattles@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 8/11/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient. SO 8/11/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/11/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/15/2023

SAWTOOTH PHASE 2 DESIGN-BUILD AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20___, by and between the Board of County Commissioners of the County of Gunnison, State of Colorado (the “County”), and Fading West Construction, LLC ("Contractor").

In consideration of the mutual covenants, agreements, conditions and undertakings hereinafter specified, the County and Contractor agree as follows:

1. **General Provisions**

a. **Project:** The project is the total design, engineering, permitting, and construction of the project to be constructed on the parcel located at the East 500 block of South 14th Street, Gunnison, Colorado and as depicted in the “Sawtooth -Phase 1, Boundary Line Adjustment Plat” recording # 690178 and labeled “Parcel 2” on the plat.

b. **Program:** Gunnison County’s program for the project: The project shall consist of 2 buildings with 15 apartments in each. Each building is anticipated to consist of 8- 2-bedroom units, 4- 1-bedroom units, and 3- Studio units. The exact quantity of buildings and unit mix may be modified with owner approval.

c. **Design Criteria:** The project shall be designed to meet 2021 International Building Code, 2021 International Energy Conservation Code, and 2021 International Wildland-Urban Interface Code requirements. The project will also comply with all City of Gunnison construction standards, codes, and rules as adopted by the City of Gunnison.

d. **Energy Efficiency:** An energy model of the buildings shall be performed with a target Energy Use Index of 35 kBtu/ft²/year for site energy consumption. Energy modeling shall be inclusive of building envelope, mechanical systems, lighting, and water heating. On-site solar generation may not be utilized to reduce energy consumption estimates to reach the design target.

e. **Incentive Programs:** The United States Department of Energy’s Zero Ready Home program requirements shall be analyzed and a comparison of cost vs. incentives the program offers shall be presented to the County.

2. **Budget**

The County’s budget for the Project is \$10,560,842, subject to appropriation. The budget is inclusive of all costs to develop the site including civil improvements, site work, building construction, geothermal well-field, mechanical systems, solar arrays, and all other requirements to develop the lot to occupancy ready apartments as described in the Program. The design, engineering, and installation of the geothermal well-field is excluded from the contract program and budget.

3. **Schedule**

Anticipated Milestones:

Scope	Completion Date
Schematic Design	September 15, 2023
Design Development	November 15, 2023
Guaranteed Maximum /50% CD’s Price	December 31, 2023
Permits/ Notice to Proceed	March 2024
Foundations/ Utilities	April 2024

Unit set	June/ July 2024
Certificate of Occupancy	September 2024

The Contractor shall provide a detailed schedule with the Guaranteed Maximum Price.

4. Project Team;

The County’s principal representative: Matthew Birnie, County Manager

The County’s project manager: John Cattles, Assistant County Manager

The Contractor’s principal representative: Josh Bearss, Director of Construction

The Contractor’s design phase project manager: Scott Simmons, Director of Development

The Contractor’s Architect: EV Studio, Dean Dalvit

The Contractor’s Engineer(s): SCJ Alliance

The Contractor’s construction project manager: Joe Lugo, Multi-family Project Manager

The Contractor’s site contractor: TBD

5. Scope of Work. The Scope of Work shall consist of two phases; the Pre-Construction phase and the Construction phase.

a. **Pre-Construction phase** shall consist of all work required to develop the Project design to the completion of 50% Construction Documents (CD). The pre-construction phase shall conclude with the Contractor’s delivery of: 50% construction documents, project schedule, clarifications and exclusions narrative, final site plan approval with an executed public improvements agreement, and a Guaranteed Maximum Price (GMP) amendment to this contract.

b. **Construction phase** shall commence upon the County acceptance of the 50% CD documents, project schedule, clarifications and exclusions narrative, and GMP by execution of the GMP contract amendment. The construction phase shall continue from the conclusion of the Pre-Construction phase through completion of the project and issuance of Certificates of Occupancy.

Contractor shall perform all work and related services required to fulfill the requirements as set forth in this agreement including but not limited to: architectural design, planning, engineering, permitting, site design, construction, and completion of buildings as described in this document. The Contractor shall provide all labor, materials, equipment, and services required to complete the Project.

If the County and the Contractor fail to agree to a GMP the project will terminate and no additional costs will be owed by the County.

6. Contract Documents. The Contract Documents, which comprise the entire agreement and contract between the County and Contractor, consist of this Agreement and Exhibit A, B, and

C, General Conditions, GMP amendment; and any modifications, change orders or other such revisions properly authorized after the execution of this Agreement.

7. **Agreement Price.** The County has appropriated the money necessary to fund this project as The County shall pay the Contractor in current funds for the performance of the work, subject to any additions and deletions, by written change order.

a. **Pre-construction Services:** The total sum for pre-construction services shall not exceed \$337,800 as detailed in Exhibit A and shall be included in the final GMP. Preconstruction services expenses shall be invoiced monthly concurrent with the performance of the work.

b. **Construction Services:** Shall not be authorized until a GMP amendment is executed. the total sum for construction services, inclusive of finalizing design and engineering from 50% CD design phase shall not exceed the GMP inclusive of Pre-construction services.

To avoid confusion: this agreement scope is for Pre-Construction Services only until at which time the GMP Amendment is executed which extends the scope of the agreement through Construction. If the GMP amendment is not executed then this contract will terminate upon delivery of 50% CD's.

c. **Modular Deposits:**

a. **Capacity Reservation Deposit (See Exhibit A– paid upon execution of this contract.**

b. **45% Deposit – paid upon execution of final GMP addendum and execution of a Supply Agreement with Fading West Building Systems.**

c. **40% Deposit - paid 30 days prior to factory fabrication.**

d. **5% Deposit – Paid upon unit completion monthly.**

8. **Non-appropriation.** Pursuant to Article X, Section 20 of the Colorado Constitution and C.R.S. § 29-1-110, as amended, the financial obligations of the County as set forth herein after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise available. This Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated. The County shall give the Contractor written notice of such non-appropriation. Financial obligations of the County payable after the current Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available, pursuant to the Constitution for annual funding appropriation.

9. **Times and Methods of Payment.**

a. Progress payments shall be made in proportion to services rendered and shall be due and owing within thirty (30) days of Contractor's submittal of a monthly invoice. If the County objects to any invoices submitted by Contractor, the County will so advise Contractor in writing giving the reason within fourteen (14) days of receipt of such invoice.

b. If the County fails to make payments due Contractor within sixty (60) days after receipt and acceptance of Contractor's bill, Contractor may, after giving seven (7) days' written notice to the County, suspend services under this Agreement until Contractor's outstanding bills have been paid in full.

c. **Retainage:** An amount equal to five percent (5%) of all progress payments shall be retained by the County until the Project is completed satisfactorily and finally accepted by the County.

d. **Final Payment:** The County shall make final payment, including release of retainage, to Contractor when the Project is complete and finally accepted by the County.

10. Final Acceptance: Final acceptance of the Project shall follow inspection and approval of Contractor's performance by the County, along with inspection by appropriate governmental officials pursuant to local, state and federal requirements, if necessary. The County shall have the right and authority to determine the acceptability of Contractor's performance for conformity with this Agreement, which determination shall be conclusive and binding upon Contractor. Final acceptance by the County is subject to the provisions of this Contract and C.R.S. § 38-26-107, as amended, and in no manner affects or releases any warranties or guarantees with Contractor or manufacturers of Project equipment.

The Project, when presented to the County for final acceptance, shall be delivered free from any and all claims or encumbrances whether then in existence or later established by law, statute, ordinance or otherwise. No claim or encumbrance against the Project or the Project site shall be outstanding or otherwise unsettled at the time of final acceptance. The right to assert any claim or encumbrance against the Project, after final acceptance by the County and final payment to Contractor, is hereby waived by Contractor on behalf of itself and any subcontractor, laborer, materialman, equipment supplier, manufacturer or other person.

11. Commencement and Completion of Performance. This agreement shall run from the date of execution of this agreement until the later of the completion of the services contemplated herein or the end of October, 2024. Contractor shall commence any work requested by the County within ten (10) days of notification by the County. In the event Contractor fails to commence work within this time period, the County may take over the work and prosecute the same to completion. The date of beginning and the time for completion of the work are essential conditions of this Agreement. Contractor shall proceed with the work at such rate of progress to insure full completion within the contract time. It is expressly understood and agreed by and between the County and Contractor that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work during the period such work is to be performed.

12. Termination.

a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided, that no such termination may be effective unless the other party is given:

- i. not less than ten (10) calendar days' written notice of intent to terminate, and
- ii. an opportunity for consultation with the terminating party prior to termination.

b. This Agreement may be terminated in whole or in part in writing by the County for its convenience.

c. Upon receipt of a termination action pursuant to paragraphs a. and b. above, Contractor shall promptly discontinue all services affected (unless the notice directs otherwise),

and the County may take over the work and prosecute the same to completion by agreement with another party or otherwise.

d. **Pandemics.** The Contractor shall abide by any local, state, and federal health orders in effect or instituted during the term of this Agreement. The Contractor is expected to implement any such changes effective immediately. Failure to abide by such requirements may result in termination of the Agreement.

e. **FORCE MAJEURE.** Neither party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of an unforeseeable event outside the control of such party, and not caused by such party's negligence, including war or armed conflict, fire, flood, strike, riot or insurrection, terrorist attack, nuclear, chemical or biological attack, natural disaster, martial law, unreasonable delay of carriers, governmental order or regulation. If a force majeure event occurs, the time for performance shall be extended by mutual agreement of the parties for a period of time as may be reasonably necessary to compensate for such delay, provided that if such performance still cannot be completed within such extended period of time, either party may terminate this Agreement and both parties will be released from any further obligation to the other.

13. Taxes, Licenses, Permits and Regulations. In all operations connected with the Project, Contractor shall pay all fees, charges and taxes imposed by law and shall obtain all licenses and permits necessary for completion of the Project, paying all fees therefore, unless otherwise specified by the County. The County shall assist Contractor to determine which licenses and permits are required for completion of the Project.

The County is exempt from Colorado state sales and use taxes on materials to be permanently incorporated in the work. Accordingly, taxes for which the County is exempt shall not be included in the Agreement Price. The County shall, upon request, furnish Contractor with a copy of its Certificate of Tax Exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an exemption certificate and purchase the materials tax free. Pursuant to C.R.S. § 39-26-708, Contractor and subcontractors shall be liable to the State of Colorado for exempt taxes paid due to failure to apply for exemption certificates or for failure to use said certificates. Contractor shall comply with all laws, ordinances, codes, rules and regulations of all governmental authorities, whether local, state or federal, relating to the performance of work on the Project and, particularly, in complying with those laws concerning the environment, workers' compensation, safety and health, state labor and materials, and equal employment opportunity.

14. Independent Contractor. In carrying out its obligations and activities under this Agreement, Contractor is acting as an independent contractor and not as an agent, partner, joint venture or employee of Gunnison County. Contractor does not have any authority to bind Gunnison County in any manner whatsoever. **Contractor acknowledges and agrees that Contractor is not entitled to: (i) unemployment insurance benefits; or (ii) Workers Compensation coverage, from Gunnison County.** Further, Contractor is obligated to pay all applicable federal, state and local taxes owed in relation to the services.

15. Indemnification. The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the County, its elected and appointed officials, officers, employees,

and agents, and their insurers, and employees, from and against all liability, claims, demands, suits, actions or proceedings of any kind, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any loss of any kind whatsoever, which arise out of or are in any manner connected with this Contract, including workers' compensation claims, in any way resulting from or arising from the services rendered by the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable under this Contract; provided, however, that the Contractor need not indemnify or save harmless the County, its elected and appointed officials, officers, employees, and agents, from damages resulting from the negligence of the County's elected and appointed officials, officers, employees, and agents, and their insurers, and employees. The County cannot and by this Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever.

The Contractor shall, to the fullest extent permitted by law, defend, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands, at the sole expense of the Contractor, or, at the option of the County, pay the County or reimburse the County for the defense costs incurred by the County in connection with any such liability, claims or demands. The Contractor shall, to the fullest extent permitted by law, defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

This indemnification provision is intended to comply with C.R.S. § 13-21-111.5(6), as amended, and shall be read as broadly as permitted to satisfy that intent.

16. Insurance. The Contractor agrees to procure and maintain, during the life of this Contract, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Contractor. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands or other obligations assumed, by reason of its failure to procure and maintain, during the life of this Contract, insurance in sufficient amounts, durations or types.

The Contractor shall procure and maintain, during the life of this Contract, for itself and any subcontractor, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the County. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor, pursuant to this Agreement. In the case of a claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

a. Workers' Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Contractor during Term of this Agreement. Evidence of qualified self-insured status may be substituted for the workers' compensation requirements of this Paragraph.

b. Commercial General Liability Insurance to be written with a limit of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, personal injury (including coverage for employee and contractual acts), including death, at any time resulting therefrom, arising out of any one occurrence, and not less than Two Million Dollars (\$2,000,000) general aggregate for all damages arising out of bodily injury, including death, at any

time resulting therefrom, during the policy period. This policy shall also include coverage for blanket contractual and independent contractor risks.

The limits of Commercial General Liability Insurance for broad-form property damage (including products and completed operations) shall be not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one occurrence, and not less than Two Million Dollars (\$2,000,000) for all damages arising out of injury to or destruction of property, including the County's property during the policy period.

The Commercial General Liability Insurance policy shall include coverage for explosion, collapse and underground hazards. The policy shall contain a severability of interests provision.

c. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) each occurrence, and Two Million Dollars (\$2,000,000) aggregate with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

d. Contractor shall provide and maintain, for the statute of repose, Professional liability insurance covering any damages caused by an error, omission in performance of the professional services with the required minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Contractor shall maintain such coverage for at least two (2) years from the termination of this Agreement.

e. Contractor shall purchase and maintain All Risk Builder's Risk insurance upon the entire Project to One Hundred Percent (100%) of the insurable value thereof for the benefit of the Owner and the Contractor. Such insurance shall include any and all direct damage to all structures under construction (including temporary structures) and all materials, supplies, machinery, and equipment at the work site which are or will be incorporated in the work, which is caused by hazards such as but not limited to, the hazards of fire, lightning, wind, earthquake, flood, vandalism, malicious mischief, and other hazards included in a standard Extended Coverage Endorsement.

The policy required by Paragraph b. above shall be endorsed to include the County, whether private or governmental, its officers and employees, and the Engineer and its agents and employees, and any other person(s), company(ies) or entity(ies) deemed necessary by the County as additional insureds. The Contractor shall be solely responsible for any deductible losses under any policy required herein.

Every policy required above shall be primary insurance, with the exception of Workers' Compensation, and any insurance carried by the County, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by the Contractor. No additional insured endorsement to the policy required by Paragraph b. above shall contain any exclusion for bodily injury or property damage arising from completed operations.

The certificate of insurance provided by the Contractor shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect and shall be reviewed and approved by the County prior to commencement of the Contract. No other form of certificate shall be used. The certificate shall identify this Contract and the coverages afforded under the policies. The completed

certificate of insurance shall be on file with the County two (2) weeks prior to the date of the Contract and shall be sent to:

Gunnison County Attorney's Office

200 E. Virginia Ave

Gunnison, CO 81230

It is the affirmative obligation of the Contractor to notify the County, as provided in this Contract, a copy of the notice, within two (2) business days of the cancellation or substantive change to any insurance policy required under this Contract, and failure to do so shall constitute a breach of this Contract.

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

The County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

The parties hereto understand and agree that the County, its officers and employees, are relying on and do not waive or intend to waive by any provision of this Agreement the monetary limitations (presently Four Hundred Twenty-Four Thousand Dollars (\$424,000) for any injury to one person in any single occurrence, and One Million One Hundred Ninety-Five Thousand Dollars (\$1,195,000) for any injury to two or more persons in any single occurrence; except that, in such instance, no person may recover in excess of Four Hundred Twenty-Four Thousand Dollars (\$424,000)), which amounts shall be adjusted by an amount reflecting the percentage change over a four-year period in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder-Greeley, All Items, All Urban Consumers, or its successor index, or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or otherwise available to the County, its officers or employees.

17. Performance and Payment Bond. Contractor shall provide to the County, prior to commencement of performance under the final GMP addendum, a Performance and Payment Bond acceptable to the County no less than 50% of the total project cost, including provisions for any adjustment thereof in accordance with the terms of this Agreement. Contractor shall obtain such bond on the County's behalf, separate and apart from any similar bonds or surety or warranty agreements entered into independently between the County and any manufacturer or supplier.

Should an Extension(s) or Amendment(s) be completed on this Agreement that increases the amount of the compensation, the Contractor shall request additional bonding capabilities from their Bonding Agent to reflect the amended contract amount as required by C.R.S. § 38-26-106

and the Contractor shall be responsible for paying any fees associated with the increase in the bonding amount. The County shall not be responsible for nor pay for any bonding fee increases.

18. Government Immunity. Liability for claims for injuries to persons or property arising from the negligence of the County, 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 Agreement 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.

19. Prohibited Terms. Any term included in this Agreement that requires the County to indemnify or hold Contractor harmless; requires the County 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 Agreement shall be construed as a waiver of any provision of § 24-106-109, C.R.S.

20. Warranties and Guarantees. Contractor hereby represents, warrants and guarantees to the County all workmanship, equipment and materials on or made a part of the Project and its structures for a period of one (1) year from and after the date of final acceptance of the work by the County, as provided by this Agreement.

21. Subcontractors. All contracts between Contractor and subcontractors shall conform explicitly to all applicable provisions of this Agreement. In all events, Contractor shall be responsible and held liable for any bonding, insurance, warranties, indemnities, progress payments and completion of performance of or to such subcontractors. Upon receipt of progress and final payments from the County, Contractor shall disburse the same immediately to subcontractors without any requirement of the County to supervise the same. The County may, but shall not be obligated to, require Contractor to furnish lien waivers for the work performed or materials furnished by subcontractors or materialmen prior to payment of progress payments or final payment. No contractual relationship shall exist between the County and any subcontractor because of the subletting of any part of the Project work.

22. Change Order. There shall be no increase in price or change in the scope of work described herein without a written change order issued by the County.

23. Amendment. This Agreement may be amended from time to time by agreement between the parties hereto. No amendment, modification or alteration of this Agreement shall be binding upon the parties hereto unless the same is in writing and approved by the duly authorized representatives of each party hereto.

24. Work Rules.

a. Contractor shall perform all work hereunder in keeping with the rules and regulations that the County may promulgate at any time for the safe, orderly and efficient conduct of all operations.

b. The County shall have the right to require of Contractor the immediate removal from the Project of any employee of Contractor or of his subcontractors who, in the discretion of the County, is not qualified to perform the work assigned to him, is guilty of improper conduct, or is not working in harmony with the other trades.

c. Nothing contained in this Agreement shall constitute Contractor as being an employee of the County, nor shall any employment relationship between the County and Contractor be created by the terms hereof.

d. Contractor is responsible for the safety of any of its materials, tools, possessions and rented items stored on the job site, and for protection of the Project, and shall hold the County and its authorized representatives harmless from any damage or loss incurred thereto.

e. Contractor shall promptly pay in full for any and all damage caused to the Project site by Contractor or by any subcontractor or other person or entity of any nature furnishing materials, equipment, machinery, supplies, labor, skilled services or instruments for whose actions Contractor is responsible hereunder.

f. No material, equipment, tools, supplies or instruments, other than those belonging to or leased by Contractor, will be removed from the Project site by Contractor without the prior written approval of the County.

g. Contractor agrees to report immediately to the County, in writing, any and all property damage and/or personal injury that occurs on the Project site during the course of Contractor's performance.

h.

25. Assignment. Contractor shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of the County. The terms of this Agreement shall inure to and be binding upon the successors and assigns of the parties hereto.

26. Nondiscrimination. The Contractor will take affirmative action to not refuse to hire, to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment against any employee, subcontractor, or applicant for employment because of race, color, sex, sexual orientation, gender identity, gender expression, age, religion, disability, national origin or ancestry, as provided by Colo. Rev. Stat. § 24-34-402 (1)(a). Contractor agrees to comply with all applicable Federal and State statutes and regulations concerning non-discrimination.

27. Severability. If any term, section or other provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, section or other provision shall not affect any of the remaining provisions of this Agreement.

28. Waiver. No waiver by either party of any right, term or condition of this Agreement shall be deemed or construed as a waiver of any other right, term or condition, nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

29. Personally Identifiable Information (PII). If the Contractor or any of its Subcontractors will or may receive PII under this Agreement, Contractor shall provide for the security of such PII, in a manner and form acceptable to the County, including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. Contractor shall be a “Third-Party Service Provider” as defined in C.R.S. § 24-73-103(1)(i) and shall maintain security procedures and practices consistent with C.R.S. § 24-73-102 and C.R.S. § 24-73-103. In the event Contractor incurs a data breach whereby it is reasonably believed that any of County’s PII either could have been, or was compromised, then Contractor shall immediately notify the County in writing and shall abide by C.R.S. § 24-73-101 *et seq.*

30. Remedies. None of the remedies provided to either party under this Agreement shall be required to be exhausted or exercised as a prerequisite to resort to any further relief to which such party may then be entitled. Every obligation assumed by, or imposed upon, either party hereto shall be enforceable by any appropriate action, petition or proceeding at law or in equity. In addition to any other remedies provided by law, this Agreement shall be specifically enforceable by either party. This Agreement shall be construed in accordance with the laws of the State of Colorado, and particularly those relating to governmental contracts. Jurisdiction and venue for any legal proceedings related to this Agreement shall exclusively lie in the State of Colorado District Court located in Gunnison County, Colorado. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law, including, but not limited to, tort remedies. The Contractor agrees that the economic loss rule shall not serve as a limitation on the County’s right to pursue tort remedies in addition to other remedies it may have against the Contractor. Such rights and remedies shall survive the acceptance of the Work or any termination of this Agreement. Contractor further specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes, regarding defects in the Work under this Agreement.

31. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document.

32. Entirety. This Agreement constitutes the entire agreement between the parties concerning the subject matter herein, and all prior negotiations, representations, contracts, understandings or agreements pertaining to such matters are merged into and are superseded by this Agreement.

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

CONTRACTOR:

By: _____

[*name/title*]

STATE OF _____)

)ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, as _____ of _____.

My commission expires: _____.

SEAL

Notary Public

ATTEST: Clerk to the Board

GUNNISON COUNTY

Commissioners

resolution)

Date: _____

By:

Chair, Board of County

(Or representative authorized by

EXHIBIT A

Capacity Reservation Agreement between the County and Fading West Construction

Project Sawtooth Phase 2

This Capacity Reservation Agreement provides the general terms and conditions under which Fading West Building Systems, LLC (“Fading West”) a Colorado limited liability company, will supply modular units (“Modular Units”) for Gunnison County and the Sawtooth Phase 2 project.

PROJECTED MANUFACTURING SCHEDULE

Estimated Production Commencement: Late February/Early March 2024

Estimated Production Completion: May 2024

The Production Commencement and Completion date is dependent upon material, labor, and manufacturing capacity, and is subject to change.

ESTIMATED MODULAR UNIT ORDER

Modular Unit Type	Number of Units	Total Cost
Studio Apts.	6	\$574,720.00
One Bedroom Apts.	8	\$1,212,800.00
Two Bedroom Apts.	16	\$3,273,280.00
Heating System	TBD	TBD
		\$5,060,800.00

DEPOSIT SCHEDULE

Due Date	Deposit Purpose	Payment Terms	Payment Amount
MEC	Capacity Reservation Fee	10% of Modular Order	\$506,080.00
Final GMP	Pre-Production Fee	45% of Modular Order	TBD
60 Days Prior to Factory Start	Material Purchase Fee	40% of Modular Order	TBD
TBD	Post-Production Fee	5% of Modular Order	TBD
	Sales Tax	Modular Order Price x 52% x 8.15% = Tax¹	N/A
		Sub-Total	\$5,060,800.00
	Change Orders, Surcharges, Fees		If applicable, added to final invoice

Exhibit B

Preconstruction Services Not to Exceed Cost

The preconstruction services not to exceed cost is based on bids received from subcontractors and anticipates a 6-month maximum duration for the preconstruction phase. Fading West will invoice monthly for work that has been completed. The total cost excludes any required permitting fees, procurement of materials and equipment, modular deposits, and legal costs. Energy modelling, zero-ready cost comparison analysis, and geothermal design are also excluded from this cost and can be added as needed.

Sawtooth Phase 2 Pre-construction Services Costs

Description	Units	Quantity	Unit Cost	Item Cost
Surveyor (if required for off-site improvements)	Budget	1	\$ 5,000.00	\$ 5,000.00
Geotechnical / Phase 1 Environmental (if required)	Budget	1	\$ 5,000.00	\$ 5,000.00
Modular Architectural / Structural / MEP (50% CD)	Budget	1	\$ 100,000.00	\$ 100,000.00
Non-Modular Architectural / Structural / MEP (50% CD)	Budget	1	\$ 40,000.00	\$ 40,000.00
Fire Suppression and Fire Alarm	Budget	1	\$ 15,000.00	\$ 15,000.00
Traffic Impact Memo (if required)	Budget	1	\$ 3,500.00	\$ 3,500.00
Civil Engineering Services	Budget	1	\$ 51,500.00	\$ 51,500.00
Landscape Architecture / Site Design	Budget	1	\$ 19,800.00	\$ 19,800.00
Development Management Fees *	Per Month	6	\$ 4,500.00	\$ 27,000.00
Construction Management Fees **	Per Month	6	\$ 4,500.00	\$ 27,000.00
Subtotal				\$ 293,800.00
15% Contingency				\$ 44,070.00
TOTAL NTE				\$ 337,870.00

*Development Management Fees will be billed per month and subtracted from the total project development fee when a final GMP addendum is executed.

**Construction Management Fees will be billed per month and included in the total general conditions cost of the project at the execution of the final GMP addendum.

Exhibit C

Preconstruction Services Anticipated Schedule

Preconstruction Work Plan –

Goal: Secure all needed information including a 50% Construction Document set and an executed public improvements agreement for the development of a Final GMP Addendum to this Design-Build contract with Gunnison County.

Assumptions: Entitlements are being done by others.

Phase 1: 2 weeks (Early August)

Secure Due Diligence Documents:

1. Survey – Completed (Update or amend as needed)
2. Geotechnical report (County to determine if applicable)
3. Phase 1 Environmental (County to determine if applicable)

Phase 2: 4 weeks (Complete by end of August - overlap with ongoing due diligence)

Develop Preliminary Site Plan:

1. Sketch plan review with City of Gunnison
2. Determine scope of public improvements required for project with City of Gunnison
3. Confirm Water/Sewer line sizes sufficient

Phase 3: 6-8 weeks - Design Development Documents

Architecture:

1. Lot Line In Design Costs based on sf of buildings
2. Identify County building performance requirements (2021 IECC, geo-thermal heat pumps, solar, windows, etc.)
3. Develop DD documents including typical structural, MEP, and architectural details

Phase 4: 6-8 weeks – Construction Documents and Public Improvements

1. Civil Construction Documents for city review and approval (November 2023)
2. 50% Construction Documents (vertical construction scope – December 2023)
3. Targeted execution of Final GMP Addendum (December 2023)

(FOR USE AT FINAL GMP)

Guaranteed Maximum Price Amendment

SAWTOOTH PHASE 2 DESIGN-BUILD AGREEMENT

Guaranteed Maximum Price

Pursuant to Section ____ of the Agreement, the County and the Contractor hereby amend the Agreement to establish a Guaranteed Maximum Price (GMP). As agreed by the County and the Contractor, the GMP is an amount that the Contract Sum shall not exceed. The Contract Sum is inclusive of all costs of work required to complete the Project plus the Contractors fee.

The Contract Sum is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by Change order as provided in the Contract Documents.

General Conditions: (based on AIA 201 or similar)

Clarifications and Exclusions:

Itemized Statement of the Guaranteed Maximum Price

(provide reference to attachment)

Allowances

Allowances included in the GMP:

Drawings

(provide reference to attachment)

Specifications

(provide reference to attachment)

Schedule

(provide reference to attachment)

1. Owner (signature)

(printed name and title)

Contractor (signature)

(printed name and title)

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Kebler Pass Trailhead; Winter Permit Parking and S

Action Requested: Discussion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

This discussion is to determine board direction for the 2023-2024 winter management of the overnight parking permits at the trailhead on the Crested Butte side of Kebler Pass.

Fiscal Impact:

Submitted by: MARTIN SCHMIDT

Submitter's Email Address: mschmidt@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 8/9/2023

County Attorney Review:

Required

Not Required

Comments:

Legally sufficient. SO 8/7/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 8/7/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 15

Agenda Date: 8/15/2023



Public Works Department

195 Basin Park Dr., Gunnison, CO 81230

Phone: 970-641-0044

Fax: 970-641-8120

October 2, 2023

Dear Property Owner:

Overnight parking on Kebler Pass for residential property owners will continue to be by permit only. Each property owner, with a permitted residential structure on their property that lies east to the Bracken Creek drainage, will be eligible to purchase two (2) permits for \$200.00 each. This fee includes one vehicle tag, one trailer tag **per property** (if needed) with evidence of current registration and up to 5 (five) snowmobile tags **per property** (as needed) with evidence of required state registration. Vehicles in the parking lot without a permit will be towed at the owner's expense.

The following regulations must be followed by the property owner to qualify to purchase a permit:

1. No permits will be issued if there is a pending enforcement order on the property.
2. All owners will be required to have a current septic inspection that shows system compliance. The Community Development Office will provide our office with a list of compliant properties. If your property is not on this list you will not be able to purchase any parking permits or tags for vehicles, trailers, or snowmobiles.
3. Permits are non-transferrable and are tied to specific properties.

Vehicle permit stickers shall be affixed inside the upper driver side of the windshield and be visible when parked (enclosed is a diagram). Place trailer tags on the tongue of the trailer. Snowmobiles tags shall be placed next to your current state registration tag. Keep all tags visible throughout the season. Replacement tags will be issued at Public Works Department with surrender or proof of destruction of old tag.

TRAILERS SHALL NOT BE PARKED OVERNIGHT IN THE TRAILHEAD AREAS, they should be parked in one of the wide spots along Kebler. **Tracked vehicles are not allowed to park in the plowed trailhead areas.**

Permits will become available on Tuesday, October 31, 2023 at 8:00 am. You may purchase a permit by calling the Gunnison County Public Works Department at 970-641-0044, or stopping by the office at 195 Basin Park Drive in Gunnison. We accept cash, check and credit cards.

There are only 56 parking permits and they are sold on a first-come first-serve basis and sell quickly. The permits and tags shall be in place prior to Friday, December 8, 2023. Ticketing and towing unpermitted vehicles and trailers will begin after that date.

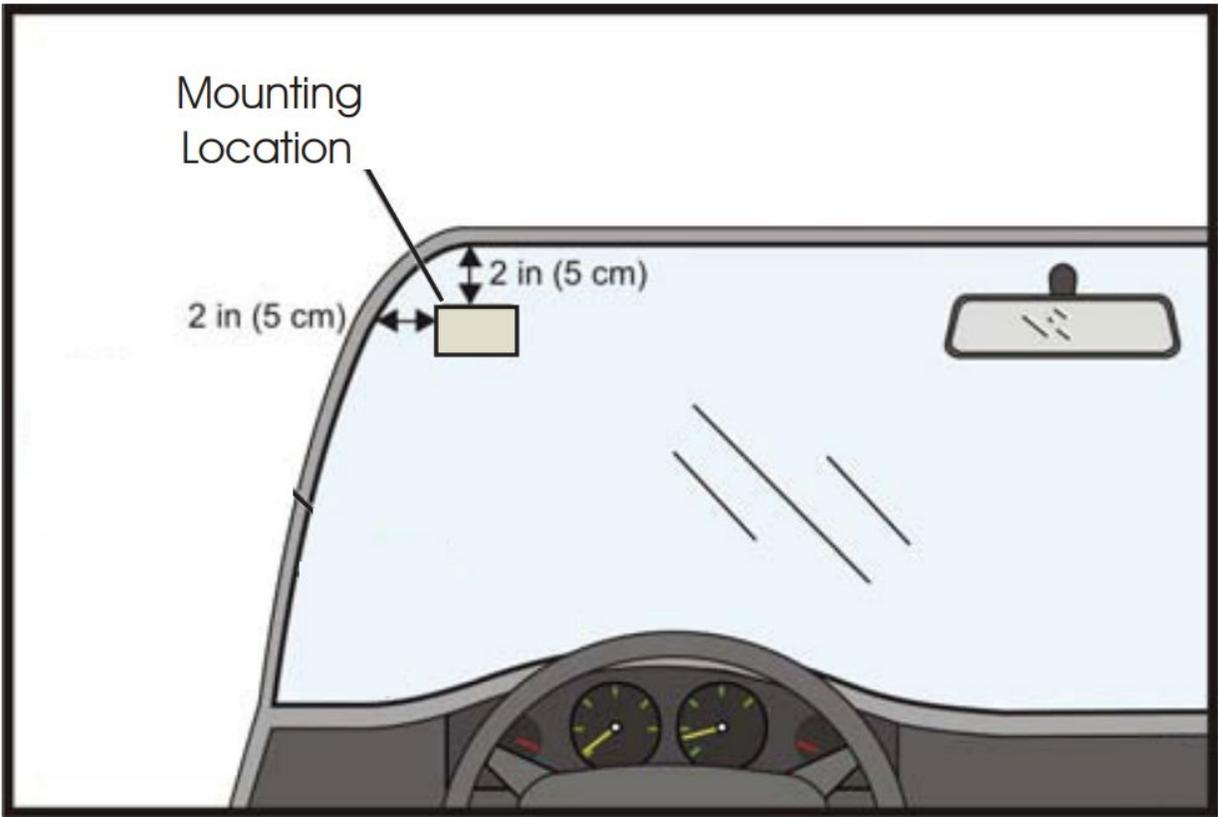
All vehicles shall be removed from the trailhead area and not parked along the road near the trailhead parking area when we plow. As usual, you will be notified of these plow dates via email which can, on occasion, be short notice. Please make arrangements to move your vehicle if you will not be there to avoid being plowed in or towed.

Thank you for your cooperation. Please do not hesitate to contact our office with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martin Schmidt".

Martin Schmidt
Assistant County Manager for Public Works



Required State Snowmobile Registrations for every vehicle used for over the snow travel:
<https://cpw.state.co.us/buyapply/Pages/SnowmobileRegistrations.aspx>

GUNNISON COUNTY, COLORADO
PUBLIC WORKS DEPARTMENT
195 BASIN PARK DRIVE
GUNNISON, CO 81230

MEMORANDUM

TO: BOCC and Matthew Birnie
FROM: Martin Schmidt, Assistant County Manager for Public Works
DATE: August 15, 2023
SUBJECT: Kebler Pass Trailhead Parking Permits
COMMENT:

The permitting system structure for the Kebler trailhead has been a challenge for many years. The County has long maintained multiple plowed parking lots on CR 12 for backcountry access that restrict overnight parking. The demand for parking at this trailhead and increasing numbers of year-round residents living off grid and beyond the plowed road makes management of parking a regrettable necessity. Initially, the overnight parking was allowed in order to make additional workforce housing available and support the local workforce in Crested Butte. The overnight parking has continued, but the permittees have become more diverse and numerous. The amount of available space and nature of the Trailhead has not changed. This is the only trailhead managed in this way by the County and is only feasible due to our Federal partners.

The issue on the agenda today is specifically about the structure of the permit system for the winter of 2023-2024. Staff is working to determine to present policies that the County will pursue in the future, at a future date. Staff anticipates that future regulation will be closely aligned with the current system.

In 2020 a large stakeholder meeting was held to gather information and allow for input on the process. The subsequent seasons have been informed by this meeting and shape staff recommendations.

Public Works designates different areas for parking at the trailhead. There is a section for trailers, overnight vehicles, day-use vehicles, snowmobiles (all over the snow vehicles) and forest service commercial permittees. Staff has seen an increase in unregistered vehicles and trailers in violation of state law that requires current registrations. Over the last 4 years we have averaged \$208.63 per parking spot solely for snow removal activities.

Full-time residents in the Irwin Townsite have asserted that they should be guaranteed permits because they live beyond plowed roads. The reality is not as simplistic as this. Additionally, Public Works staff does not have the bandwidth to determine the level or style of occupation, and would rather use the status of the septic permit as a qualifier for the permits. This has been upheld by the courts. Permits are not issued to owners of

vacant land or properties with pending enforcement actions. There are 56 overnight parking spots available at the trailhead and the permitted residences are checked at the time of application.

2019-2020 Permit Protocol:

\$100.00 per permit, 1 initially then 2nd after 12/2/19 / 1 Trailer tag issued / unlimited snowmobile tags

2020-2021 Permit Protocol:

\$125.00 per permit, 2 initially (max of 2) / 1 Trailer tag issued / 5 snowmobile tags

2021-2022 Permit Protocol:

\$125 per permit, 2 initially (max of 2) / No Trailer tags issued / 5 snowmobile tags

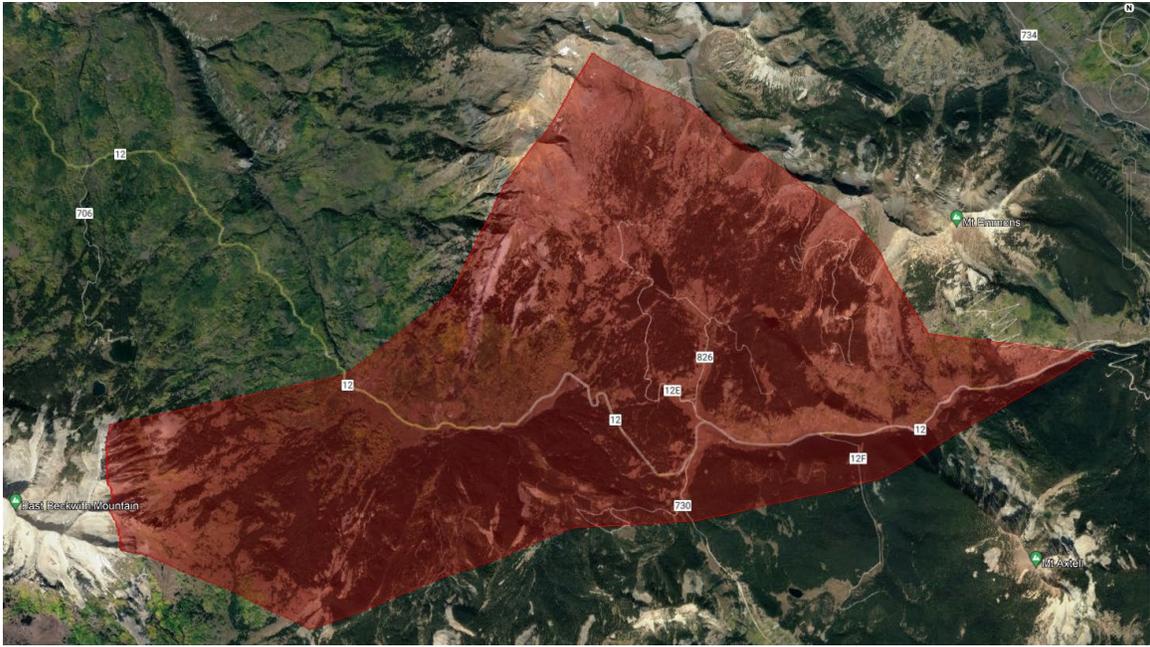
2022-2023 Permit Protocol:

\$125 per permit, 2 per property (max of 2) / 1 Trailer tag issued / 5 snowmobile tags

Winter Season	Vehicle Permits	Trailer Permits	Snowmobile Tags
2022-2023	56	30	134
2021-2022	56	0	128
2020-2021	55	38	138
2019-2020	49	26	172
2018-2019	44	23	108
2017-2018	43	24	N/A
2016-2017	36	23	N/A

Staff Recommendation:

For the 2023-2024 season the Public Works staff is recommending two (2) permits are offered per qualifying residential property until no spots are available. With a parking permit the following will be made available: one (1) snowmobile trailer tag per property, and up to five (5) snowmobile tags per property. All Vehicles will be required to park in the correctly designated areas. Permits will be issued on a first-come, first-served basis starting October 31, 2023 at 8 am. Ticketing and towing will begin on December 8th, 2023. Proof of valid registration for trailers and over the snow vehicles will be required in order to comply with state law. Based on average costs over the last 4 years, the price per permit should increase to \$200 each. There have been increasing requests for commuting over the pass and acquiring a permit. In response, the specific area from the Winter Trailhead, heading west to the Bracken Creek Drainage (near horse ranch Park) and including the Coal Creek Drainage, has been identified as the reasonable boundaries for this program because it allows for the maximum number of residents in the area to be served. Plowing of the overnight lot will occur when all other County plowing has been accomplished and 2 days' notice via email has occurred.



Approximate boundary lines for permit eligibility.

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Gunnison County Boards and Commissions; At-Large A

Action Requested: Motion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Attached are the initial applications of Bruce Mullins Jr. and Hedda Peterson - for your reference when deciding on the At-large appointment to STOR. Both were interviewed during the 7/25 work session.

Fiscal Impact:

Submitted by: Melanie Bollig

Submitter's Email Address: mbollig@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by:

Discharge Date: 8/7/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/15/2023

From: noreply@civicplus.com
Sent: Monday, July 3, 2023 8:23 AM
To: BOCC
Subject: Online Form Submittal: Boards and Commissions Application

Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL SENDER - USE CAUTION]

Boards and Commissions Application

Board/Commission or position applying for: Sustainable Tourism & Outdoor Recreation Committee

First and Last Name: Bruce Mullin Jr

Address

City: Gunnison

Phone

Email Address

Why would you like to serve on this Board or Commission?

To whom it may concern,
My name is Bruce "LB" Mullin Jr. I would like to serve on the STOR committee because of my interest and experience in recreation in Gunnison County. I am a graduate of the Western Rec program, owner of a public land outfitting business, partner on a local Gunnison ranch and equestrian facility (Lost Miner Ranch), and board member of the Gunnison Wildlife Association. All of these experiences have prepared me to give back to the community on the STOR committee. I have watched the STOR since the beginning, and see the positive things being done. I would jump at the chance to be a part of helping guide recreation in the Gunnison Valley in the future. Thank You for your time.
Bruce Mullin Jr

Field not completed.

Additional Comments

Email not displaying correctly? [View it in your browser.](#)



Gunnison County Board of County Commissioners

200 E. Virginia Avenue

Gunnison, CO 81230

June 6, 2023

To the Gunnison County Board of County Commissioners,

Please accept this letter of interest from Crested Butte Nordic (CB Nordic) to join the Sustainable Tourism and Outdoor Recreation (STOR) committee as a public at-large member.

CB Nordic supports our community's mental and physical health by providing year-round recreation through trails, programs, and events. As a non-profit cross-country ski center, we groom 50 kilometers of winter trails surrounding downtown Crested Butte for cross-country skiing, snowshoeing, fat biking, and dog walking. Approximately 20% of our groomed trails are free and open to the public. We also provide a host of programming for people of all ages and abilities as well as five vibrant community events throughout the year.

In the last ten years, CB Nordic has experienced an average of 10% growth annually. We estimate that on average, our services serve roughly 12,000 people annually, a number that would likely be greater if we did not have to cap certain events such as the Grand Traverse races for safety reasons. In the 22/23 season, we had 2,531 season pass holders and sold 5,000 day passes. Our adult and youth programs served approximately 2,200 people in the 22/23 season, and we welcomed 2,175 event participants.

CB Nordic relies entirely on our local partners, landowners and managers, and the community at large. As an organization, we do not own land or hold trail easements. Even the Nordic Center facilities are owned by the Town of Crested Butte. For these reasons, it's critical that we prioritize working collaboratively with the strong network of Gunnison Valley stakeholders. ***Sustainable use of our natural resources and responsible management of our local and visiting recreationists are priorities for CB Nordic.*** By joining the STOR committee, we want to play an active role in this work.

Thank you for your time and consideration,

Hedda Peterson

Executive

Director

Crested Butte, CO 81224

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Lot Cluster; Western Star No. 4 and 5 Lode Mining

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Lot cluster of Western Star No. 4 and 5 Lode Mining Claims, Quartz Creek

Fiscal Impact:

Submitted by: Rachael Blondy

Submitter's Email Address: rblondy@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Appears legally sufficient. ASFR 8.11.23

Reviewed by: GUNCOUNTY1\asanfilippo-rosser

Discharge Date: 8/11/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/15/2023

To: Board of County Commissioners

RE: LUC-23-00029 | Lot Cluster | Gage Pitkin Holdings, LLC - Quartz Creek

Date: August 7, 2023

The Applicant, Gage Pitkin Holdings, LLC, represented by Michael C. Dawson, LLC, request approval of a lot cluster as shown in Exhibit A. The parcels legally described as Western Star No. 4 and 5 Lode Mining Claims, U.S. Survey No. 8138, QUARTZ CREEK MINING DISTRICT must be clustered in order for the owner to legally access and build upon Western Star No. 4.

Staff recommends that the Board approve the lot cluster and finds that the application complies with all applicable standards found in LUR Section 5-103 and is compatible with community character, as it will further maintain the rural character of the Pitkin area.

Section 5-103: Standards for Approval of Administrative Review Projects describes the standards for approval:

1. COMPLY WITH APPLICABLE STANDARDS. The land use change shall comply with all applicable standards and other provisions of this Resolution.
2. COMPATIBILITY WITH COMMUNITY CHARACTER. The proposed land use change shall be compatible with, or an enhancement of, the character of existing land uses in the area, and shall not adversely impact the future development of the surrounding area.

The Lot Cluster was reviewed by planning staff and by the County Attorney's Office on August 1st, 2023 and was found to comply with the standards of [Land Use Resolution](#) Sec. 5-104.M, *Application Form for Lot Cluster*.

Thank you,

Rachael Blondy

Exhibits

You may review the entire application at <https://permitdb.gunnisoncounty.org/citizenaccess>, click "Projects", search by application number LUC-23-00029. Click on "Attachments".

- A. Plot Plan
- B. Lot Cluster Agreement



LOT CLUSTER AGREEMENT AND DECLARATION

Date of Meeting _____ (filled in by staff)

THIS LOT CLUSTER AGREEMENT AND DECLARATION is made between the Board of County Commissioners of the County of Gunnison, Colorado (hereinafter "Gunnison County")

and GARY BRECKA
(Owner)
MANAGING MEMBER

GAGE PITKIN HOLDINGS, LLC
(Owner)

(Owner)

(Owner)

RECITALS:

Legal Description: Complete – please attach if too long _____

Western Star No. 4 and 5 Lode Mining Claims, U.S. Survey No. 8138, QUARTZ CREEK MINING DISTRICT, said mining claims as defined and limited by their respective patents;

and any adjacent street or alley that is or may be vacated.,
County of Gunnison
State of Colorado

- 2. This *Lot Cluster Agreement and Declaration* is made for good, valuable and sufficient consideration, including the creation of a single parcel by the clustering of the above described properties.

NOW, THEREFORE, it is agreed that:

- 1. Gunnison County, Colorado and Owner, on behalf of themselves, their respective heirs, successors, personal representatives and assigns, hereby declare that the real property described above shall hereafter be and is combined into one parcel to be maintained as one new integrated parcel and single building lot and further declare that no portion of such new parcel constituting less than the entire new parcel may be conveyed, mortgaged or encumbered or otherwise transferred without prior compliance with applicable subdivision requirements including but not limited to the *Gunnison County Land Use Resolution*.
- 2. This *Lot Cluster Agreement and Declaration* does not independently change or amend any fee, assessment or charge regarding any service to such real property.

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by _____ (Mortgage/Lien Holder).

Witness my hand and official seal.

My Commission expires: _____

Notary Public

Address:

Date: _____

Chairperson

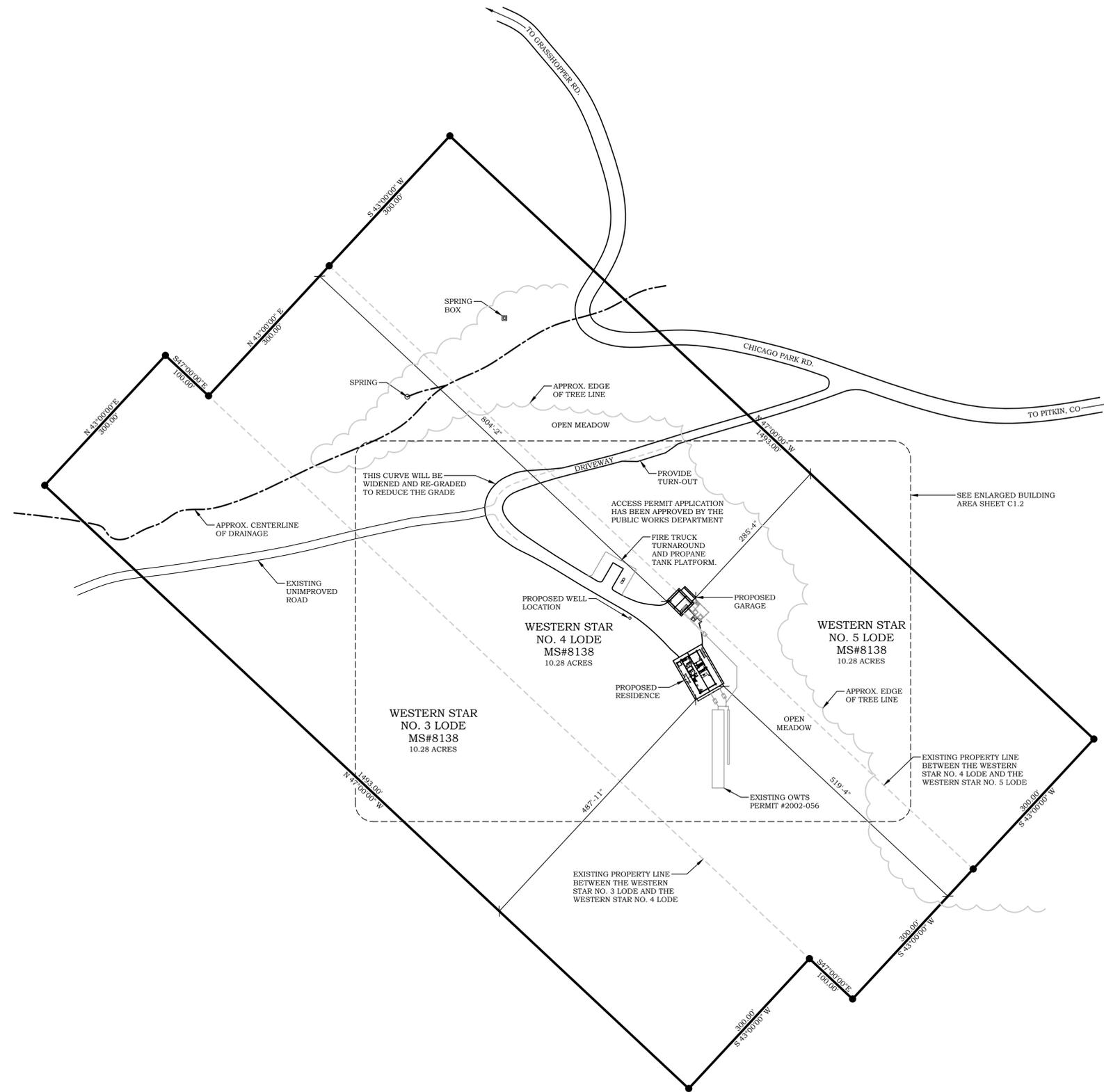
Vice-Chairperson

Commissioner

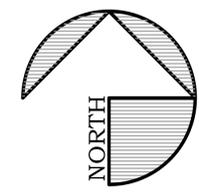
Board of County Commissioners
Gunnison County, Colorado

Attest:

Gunnison County Clerk and Recorder



OVERALL PLOT PLAN
SCALE : 1" = 100'-0"

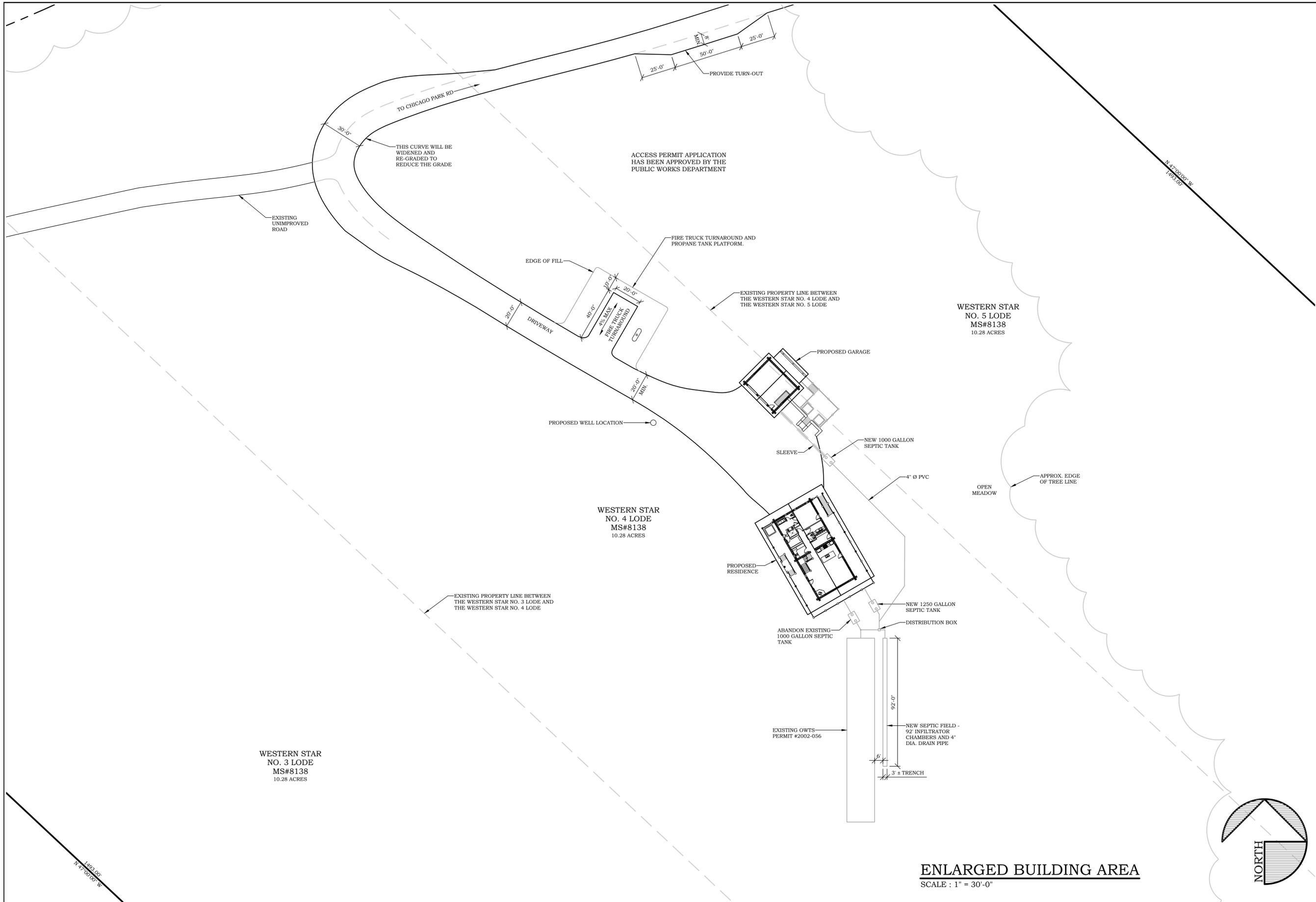


FRONTIER LOG HOMES
60813 MAPLE GROVE ROAD
PHONE (970) 249-7130
MONTROSE, COLORADO 81403

BRECKA RESIDENCE
TBD CHICAGO PARK ROAD
QUARTZ CREEK AREA
GUNNISON COUNTY, COLORADO

DATE ISSUED		6 JULY 2022
DRAWN BY:		M.W.
DATE	REVISION	
6-14-23	REVISION	
DATE PLOTTED		6-14-23

TITLE
OVERALL PLOT PLAN
DRAWING NO.
C1.1



FRONTIER LOG HOMES

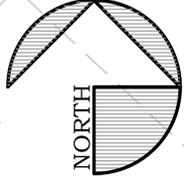
60813 MAPLE GROVE ROAD
 PHONE (970) 249-7130
 MONTROSE, COLORADO 81403

BRECKA RESIDENCE
 TBD CHICAGO PARK ROAD
 QUARTZ CREEK AREA
 GUNNISON COUNTY, COLORADO

DATE ISSUED		6 JULY 2022	
DRAWN BY:		M.W.	
DATE	REVISION	DATE	REVISION
6-14-23	REVISION		
DATE PLOTTED - 6-14-23			

TITLE
 ENLARGED BUILDING AREA

DRAWING NO.
 C1.2



AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Townhome Plat Amendment; LUC-23-00034; Basin Real

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Townhome plat for 12 townhome units in phase two of the 24-unit Basin Mountain Village Townhomes located in the Buckhorn Ranch Subdivision.

Fiscal Impact:

Submitted by: Hillary Seminick

Submitter's Email Address: hseminick@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Appears legally sufficient. ASFR 8.8.23

Reviewed by: GUNCOUNTY1\asanfilippo-rosser

Discharge Date: 8/8/2023

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/11/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/15/2023

To: Board of County Commissioners

RE: LUC-23-00034 | Townhome Plat Amendment | Basin Mountain Village

Date: August 7, 2023

The Applicant, Basin Real Estate Holdings, LLC, represented by Law of the Rockies, request approval of a Townhome Amendment Plat (Amendment Plat) as shown in Exhibit A. The plat memorializes the construction of 12 townhome units in phase two of the 24-unit townhome development located in the Buckhorn Ranch Subdivision. The Basin Mountain Village Plat and Restated Declaration of Basin Mountain Village were recorded on August 2, 2022 at Reception No. 68692 and August 8, 2022 at Reception No. 686417, respectively. The Applicant has submitted the First Amendment to Restated Declaration of Basin Mountain Village (Amended Covenant) that will establish the voting interest and shared expense liability of the new units in the Basin at Mountain Village. The County is not a party to the Amended Covenant; however, the Amendment Covenant will be referenced on and to the Amendment Plat.

The Amendment Plat was reviewed by planning staff on July 25th and by the County Attorney's Office on July 26th, 2023 and was found to comply with the standards of [Land Use Resolution](#) Sec. 5-103.K, *Specifications for Condominium/Townhome Plats*.

Thank you,

Hillary Iza Seminick, AICP

Exhibits

You may review the entire application at <https://permitdb.gunnisoncounty.org/citizenaccess>, click "Projects", search by application number LUC-23-00034. Click on "Attachments".

- A. Amendment Plat
- B. Basin Mountain Village Plat
- C. Amended Covenant

**FIRST AMENDMENT TO RESTATED DECLARATION
OF
BASIN MOUNTAIN VILLAGE**

This First Amendment to Restated Declaration of Basin Mountain Village (“First Amendment”) is executed this ___ day of _____, 2023, by the Declarant of Basin Mountain Village.

1. Purpose.

1.1. The Restated Declaration of Basin Mountain Village was recorded at Reception No. 686417 in the real property records of Gunnison County, Colorado (“Declaration”).

1.2. The Declaration encumbers certain real property in Gunnison County, Colorado, more particularly described therein and on the Plat of Basin Mountain Village recorded at Reception No. 686292 in the real property records of Gunnison County, Colorado (“Plat”).

1.3. Pursuant to the Declaration, the Project consists of two phases with each phase containing twelve Units. Phase 1, consisting of twelve townhome Units, was completed as shown on the Plat and Phase 2, consisting of twelve townhome Units, is now complete and is being added to the Project.

1.4. Pursuant to Article 12 and Sections 14.1(e), (f), and (h) of the Declaration and C.R.S. § 38-33.3-210, the Declarant hereby amends the Declaration and Plat to add to the Project the twelve Phase 2 Units and any associated common elements.

2. Amendment. The Declaration is amended as follows:

2.1. Pursuant to Article 12 and Sections 14.1(e), (f), and (h) of the Declaration and C.R.S. § 38-33.3-210, the Remainder Parcel M1-13, M1-14, M1-15 as shown on the Plat and as subdivided as shown on the Amended Plat of Basin Mountain Village recorded at Reception No. _____ (“Amended Plat”) in the real property records of Gunnison County, Colorado, is hereby added to Basin Mountain Village and is subject to all terms and conditions of the Declaration, and shall be considered part of the Project as defined in the Declaration.

2.2. Any common elements being added to the Project as part of Phase 2 are shown on the Amended Plat.

2.3. Exhibit A to the Declaration is hereby amended and restated in its entirety as shown in Exhibit A attached to this First Amendment.

EXHIBIT A

TABLE OF INTERESTS

Unit	Share of Vote	Standard Common Expense Liability
1A	1/24	1/24
1B	1/24	1/24
1C	1/24	1/24
1D	1/24	1/24
2A	1/24	1/24
2B	1/24	1/24
2C	1/24	1/24
2D	1/24	1/24
3A	1/24	1/24
3B	1/24	1/24
3C	1/24	1/24
3D	1/24	1/24
101A	1/24	1/24
101B	1/24	1/24
101C	1/24	1/24
101D	1/24	1/24
131A	1/24	1/24
131B	1/24	1/24
131C	1/24	1/24
131D	1/24	1/24
161A	1/24	1/24
161B	1/24	1/24
161C	1/24	1/24
161D	1/24	1/24