Town of Superior
Board of Trustees
January 22, 2024 (5:00 p.m.)

*Revised

The Board meeting will be held in-person and remotely, and members of the public wishing to attend may view the Meeting by visiting the Town's website: https://www.superiorcolorado.gov/home

The Board Meeting recording will be posted subsequently on the Town's website.

* Executive Session to hold a conference with the Town's attorney and special counsel to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b), regarding Rocky Mountain Metropolitan Airport and related aviation matters (5:00 p.m.)

1. Call to Order Meeting of Board of Trustees (6:00 p.m.)

2. Preliminary Matters (6:00 p.m.)

    a. Pledge of Allegiance

    b. Roll Call

    c. Approval of Agenda

    d. Board Reports (6:05 p.m.)

    e. Public comment on Consent Agenda, Presentations, and Non-Agenda Items. Persons making public comment are asked to state your name and the city you live in (limit 5 min./person) (6:20 p.m.)

    f. Advisory Committee Interviews (6:30 p.m.)

    g. OSAC Presentation on Prairie Dogs (6:50 p.m.)

3. Consent Agenda (7:20 p.m.)
    a. Approval of the Board of Trustees Meeting Minutes
    b. Acceptance of Committee Meeting Notes
    c. Proclamation – Gun Violence Survivors Week
    d. Acceptance of Advisory Committee Work Plans – ACES, CAPS, PC, SHC & SYLC
    e. Consideration of Coyote Ridge Open Space Master Plan Acceptance
    f. Consideration of Ordinance Extending Rebuild Rebates
    g. Consideration of Resolution Approving CDOT IGA for Rock Creek Parkway Pedestrian Bridge Grant
    h. Consideration of Resolution Approving Superior Youth Leadership Council Appointments (SYLC)

4. Discussion of E-Bike/Scooter Regulations (7:25 p.m.)

5. Adjournment (11:00 p.m.)

Public comment submitted via e-mail regarding general Town Board agenda items that are not the subject of public hearings should be submitted with sufficient time before the meeting to allow Board Members an opportunity to review.

ITEM NO. 2f

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: **Advisory Group Applicant Interviews: Advisory Committee for Environmental Sustainability (ACES) and Open Space Advisory Commission (OSAC)**

MEETING DATE: **January 22, 2024**

PRESENTED BY: **Matt Magley, Town Manager**

PRESENTED FOR: **Interviews**

BACKGROUND:
Staff has scheduled interviews with the Town Board for candidates interested in consideration for appointment to serve on Town Advisory Committees. All Advisory Committee vacancies are advertised through Town media. Copies of possible interview questions and application materials have been included for review.

Listed below are the applicants scheduled to interview with the Town Board:

Advisory Committee for Environmental Sustainability (ACES) – 1 Vacancy
- Lisa Barnes
- Marsha Barancik

Open Space Advisory Commission (OSAC) – 2 Vacancies
- Chris Moor
- Joann Maneri

ATTACHMENTS
- Applicant applications
- Sample interview questions

Town of Superior Advisory Groups

Advisory Committee for Environmental Sustainability (ACES)

Board Details

ACES Overview
The Advisory Committee for Environmental Sustainability (ACES) works to support environmental sustainability in the Town of Superior by focusing on water and energy efficiency, waste management, and other activities that support resource conservation, improved air and water quality, and climate change mitigation.

ACES was formerly called the Waste Diversion Advisory Committee and was created by the Board of Trustees at their May 14, 2001 meeting to help meet the goal of minimizing waste generated in Superior through recycling, reuse and pollution prevention. In November of 2005, the committee's name changed to the Recycling and Conservation Advisory Committee, and in December of 2017 the name changed again to the Advisory Committee for Environmental Sustainability with expanded scope beyond waste management.

Overview

Size 9 Seats

Term Length Varies

Term Limit 3 Terms

Additional

Meeting Information

Date: Second Thursday of Each Month Time: 5:30 pm - 7:30 pm Location: Superior Community Center 1500 Coalton Rd Superior, CO 80027 ACES meetings are currently held in person with a concurrent virtual option: https://bit.ly/3mfasES

Contact the Committee Members

ACES

Staff Liaison

Alexis Bullen - Sustainability Analyst

Establishing Resolution

Change_RCAC_to_ACES.pdf

Committee Work Plan

Committee Work Plan

Additional Resolutions

ACES_2023_Work_Plan__Final.pdf

Town of Superior Advisory Groups

Advisory Committee for Environmental Sustainability (ACES)

Board Roster

Mike Foster

1st Term Aug 10, 2020 - Jun 30, 2025

Office/Role Chair

Michelle Gazarik

1st Term Feb 22, 2021 - Jun 30, 2025

Nicola J Hewett

1st Term Apr 10, 2023 - Jun 30, 2026

Miles H Hoffman

1st Term Feb 22, 2021 - Jun 30, 2025

James A Lester

Partial Term Dec 13, 2021 - Jun 30, 2024

Stephan Sain

2nd Term Jul 01, 2023 - Jul 01, 2026

John Schallau

1st Term Jun 30, 2021 - Jun 30, 2024

James Zarske

2nd Term Jul 01, 2023 - Jul 01, 2026

Office/Role Vice Chair

Vacancy

Application Form

Profile

General Instructions:
Superior residents interested in serving on an Advisory Group are asked to complete this application. This form is designed to facilitate the application process for positions on the Town of Superior's various Advisory Groups. Appointments are made by the Superior Board of Trustees after reviewing all applications. Interviews may be necessary. Appointments will be made following the review of interviews at public meeting by the Board of Trustees. APPLICANTS MUST BE RESIDENTS OF THE TOWN OF SUPERIOR (except for the Superior Historical Commission).

Lisa — First Name
— Middle Initial
Barnes — Last Name

[redacted] — Email Address

[redacted] — Home Address
[redacted] — Suite or Apt
[redacted] — City
[redacted] — State
[redacted] — Postal Code

[redacted] — Primary Phone

Question applies to multiple boards

Years of Residence in Superior

7

Question applies to multiple boards

Employer

retired

Question applies to multiple boards

Position Title

Sustainability Consultant (prior to retiring)

Which Boards would you like to apply for?

Advisory Committee for Environmental Sustainability (ACES): Submitted

Experience

Question applies to multiple boards

Please list your past or current experience in civic or private organizations and/or governmental service experience. If you have not attached your resume (below), please list your professional experience and/or current occupation and responsibilities that may be relevant to your application.

I have served on a number of committees for professional organizations. I was secretary and chair of both the Substantiality and Stewardship Committee and the Management Committee of the American Industrial Hygiene Association. I was also an active member of the Environmental Committee of the Air and Waste Management Committee. I also served as secretary of my neighborhood HOA Board for two years.

Question applies to multiple boards

Please provide any additional comments or information that you feel qualifies you to serve on the Advisory Group(s) for which you expressed interest. Please include any additional documents you feel may be relevant.

I have worked as a sustainability professional for over 10 years and have extensive experience in the environmental field during my career. Since I am now retired, I am seeking an opportunity to volunteer in a capacity that I can use my knowledge and experience to help the community. I think that the advisory group will be a good fit for me.

Question applies to multiple boards

Upload Resume

Question applies to multiple boards

Upload relevant document

Town Documents

Question applies to multiple boards

Have you read any of the following Town of Superior documents (all of these can be found on the Town's website)? If yes, check the box next to the document(s) you have read. **Please note that familiarity with these documents is not a requirement for serving on an Advisory Group.

Question applies to multiple boards

Superior Comprehensive Plan

◉ Yes ○ No

Question applies to multiple boards

Advisory Group Work Plan

◉ Yes ○ No

Application Form

Profile

General Instructions:
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Marsha — First Name
— Middle Initial
Barancik — Last Name

[redacted] — Email Address

[redacted] — Home Address
[redacted] — Suite or Apt
[redacted] — City
[redacted] — State
[redacted] — Postal Code

[redacted] — Primary Phone

Question applies to multiple boards

Years of Residence in Superior

almost 2 years

Question applies to multiple boards

Employer

Focus on the Frontier llc

Question applies to multiple boards

Position Title

Founder

Which Boards would you like to apply for?

Advisory Committee for Environmental Sustainability (ACES): Submitted

Experience

Question applies to multiple boards

Please list your past or current experience in civic or private organizations and/or governmental service experience. If you have not attached your resume (below), please list your professional experience and/or current occupation and responsibilities that may be relevant to your application.

1) Senior Vice President - Strategic Impact of BOLD 2026: Developed an affordable housing strategy for Jefferson County, focused on attracting and sustaining a high-skilled workforce. Collaborated with all Jefferson County mayors, major employers and housing developers. 2) Rocky Mountain Institute - Program Marketing Manager on system interventions for advancing a renewable energies strategy. 3) Building community awareness of initiatives that affect local quality of life has been fundamental to my roles at United Airlines, USAF, ManpowerGroup and as a journalist.

Question applies to multiple boards

Please provide any additional comments or information that you feel qualifies you to serve on the Advisory Group(s) for which you expressed interest. Please include any additional documents you feel may be relevant.

I have experience building and managing public-private partnerships that own sustainability initiatives, and I have also worked for corporations on corporate social responsibility initiatives, enabling employers to better serve the communities where they operate. Social impact initiatives I have worked on primarily focus on the talent gap in communities. I am also a veteran journalist, with extensive experience covering city hall issues and detailing their community impact.

Question applies to multiple boards

Upload Resume

Question applies to multiple boards

Upload relevant document

Town Documents

Question applies to multiple boards

Have you read any of the following Town of Superior documents (all of these can be found on the Town's website)? If yes, check the box next to the document(s) you have read. **Please note that familiarity with these documents is not a requirement for serving on an Advisory Group.

Question applies to multiple boards

Superior Comprehensive Plan

◉ Yes ○ No

Question applies to multiple boards

Advisory Group Work Plan

◉ Yes ○ No

Town of Superior Advisory Groups

Open Space Advisory Committee (OSAC)

Board Details

Overview
The purpose of the Open Space Advisory Committee is to investigate options for preserving land for open space purposes in the Town of Superior.

Mission
To acquire, conserve, and provide stewardship of natural open space lands and associated resources, to promote and protect wildlife, to ensure public enjoyment and appropriate recreation, and to conduct relevant educational programs.

Goals
• To advise the Town Board regarding acquisition and protection of natural lands and buffers using the Open Space Fund.
• To advocate for the conservation and restoration of natural resources for the benefit of the environment and for the education and enjoyment of current and future generations.
• To promote the conservation and protection of wildlife, including providing input on development projects and conserving healthy wildlife resources, within the Town of Superior.
• To provide public outreach, education and volunteer opportunities by increasing awareness and appreciation of the Town of Superior's open space.
• To provide quality recreational opportunities, including recommendations regarding trails on open space, while minimizing the impact to open space resources.
• To collaborate with surrounding open space organizations on issues of mutual interest including future open space acquisitions, wildlife conservation and protection, and the connectivity of trails and access within the region.

Overview

Size 9 Seats

Term Length Varies

Term Limit 3 Terms

Additional

Meeting Information

Date: Second Wednesday of Each Month Time: 6:00 pm - 8:00 pm Location: Superior Community Center 1500 Coalton Rd Superior, CO 80027 OSAC meetings are held in person with a concurrent virtual option: http://bit.ly/2XufkJg

Contact the Committee Members

OSAC

Staff Liaison

Phary Om - Open Space Ranger

Establishing Resolution

Reestablishing_OSAC.pdf
Establishing_OSAC.pdf

Committee Work Plan

OSAC_2024_Final_Work_Plan.pdf

Committee Work Plan

Additional Resolutions

2023_OSAC_Work_Plan_Final.pdf

Town of Superior Advisory Groups

Open Space Advisory Committee (OSAC)

Board Roster

John Bahr

1st Term Aug 08, 2022 - Jun 30, 2026

Tracey F Bain

1st Term Jun 30, 2021 - Jun 30, 2024

Amber Greves

1st Term Feb 08, 2021 - Jun 30, 2024

Michael Mcdonnell

1st Term Jun 30, 2021 - Jun 30, 2025

Kara Neuse

1st Term Sep 28, 2020 - Jun 30, 2026

Office/Role Chair

Rita A Trainor

1st Term Aug 08, 2022 - Jun 30, 2026

Office/Role Vice Chair

Cristi M Verbeck

1st Term Jan 23, 2023 - Jun 30, 2026

Jeffrey L Wade

1st Term Jul 10, 2023 - Jun 30, 2026

Vacancy

Application Form

Profile

General Instructions:
Superior residents interested in serving on an Advisory Group are asked to complete this application. This form is designed to facilitate the application process for positions on the Town of Superior's various Advisory Groups. Appointments are made by the Superior Board of Trustees after reviewing all applications. Interviews may be necessary. Appointments will be made following the review of interviews at public meeting by the Board of Trustees. APPLICANTS MUST BE RESIDENTS OF THE TOWN OF SUPERIOR (except for the Superior Historical Commission).

Chris
First Name

Middle Initial

Moor
Last Name

[redacted]
Email Address

[redacted]
Home Address

[redacted]
Suite or Apt

[redacted]
City

[redacted]
State

[redacted]
Postal Code

[redacted]
Primary Phone

Question applies to multiple boards

Years of Residence in Superior

2.5

Question applies to multiple boards

Employer

Trimble, Inc

Question applies to multiple boards

Position Title

VP Strategy and Customer Success

Which Boards would you like to apply for?

Open Space Advisory Committee (OSAC): Submitted

Experience

Question applies to multiple boards

Please list your past or current experience in civic or private organizations and/or governmental service experience. If you have not attached your resume (below), please list your professional experience and/or current occupation and responsibilities that may be relevant to your application.

I have very little experience volunteering like this (I've moved around a lot but may have found my home!!) but want to give back to the community

Question applies to multiple boards

Please provide any additional comments or information that you feel qualifies you to serve on the Advisory Group(s) for which you expressed interest. Please include any additional documents you feel may be relevant.

I can't say I have any specific qualifications for this to be honest. I love the outdoors, even if I don't get out as much as I'd like. I have two kids who ride (and race) mountain bikes and play soccer. My wife loves to run. I love to run and ride (and hike when I can). We have a dog (George) who loves to run in the open spaces. I live in Superior and see a huge opportunity to make this place the best in Colorado!!

Upload Resume

Question applies to multiple boards

Upload relevant document

Town Documents

Question applies to multiple boards

Have you read any of the following Town of Superior documents (all of these can be found on the Town's website)? If yes, check the box next to the document(s) you have read. **Please note that familiarity with these documents is not a requirement for serving on an Advisory Group.

Question applies to multiple boards

Superior Comprehensive Plan

○ Yes ◉ No

Question applies to Open Space Advisory Committee (OSAC)

Open Space Summary Report

◉ Yes ○ No

Question applies to multiple boards

Advisory Group Work Plan

◉ Yes ○ No

Application Form

Profile

General Instructions:
Superior residents interested in serving on an Advisory Group are asked to complete this application. This form is designed to facilitate the application process for positions on the Town of Superior's various Advisory Groups. Appointments are made by the Superior Board of Trustees after reviewing all applications. Interviews may be necessary. Appointments will be made following the review of interviews at public meeting by the Board of Trustees. APPLICANTS MUST BE RESIDENTS OF THE TOWN OF SUPERIOR (except for the Superior Historical Commission).

Joann (First Name) | Y (Middle Initial) | Maneri (Last Name)

[redacted]
Email Address

[redacted]
Home Address

[redacted]
Suite or Apt

[redacted]
City

[redacted]
State

[redacted]
Postal Code

[redacted]
Primary Phone

Question applies to multiple boards

Years of Residence in Superior

3

Question applies to multiple boards

Employer

Retired

Question applies to multiple boards

Position Title

Which Boards would you like to apply for?

Open Space Advisory Committee (OSAC): Submitted

Experience

Question applies to multiple boards

Please list your past or current experience in civic or private organizations and/or governmental service experience. If you have not attached your resume (below), please list your professional experience and/or current occupation and responsibilities that may be relevant to your application.

Volunteer Indian Peaks Wilderness Alliance (2010-present) Volunteer Harvest of Hope Food Pantry (2003-present) Town of Superior Wildlife Monitor volunteer (2022-present) Past president Meadows Club, Boulder Past board chairman/board member Mother House, Boulder Retired from University of Colorado Foundation (1993-2009)

Question applies to multiple boards

Please provide any additional comments or information that you feel qualifies you to serve on the Advisory Group(s) for which you expressed interest. Please include any additional documents you feel may be relevant.

Interested in giving back to community Avid pickle ball player (Superior courts Autry Park) Daily walker/biker on Rock Creek/Superior trails

Question applies to multiple boards

Upload Resume

Question applies to multiple boards

Upload relevant document

Town Documents

Question applies to multiple boards

Have you read any of the following Town of Superior documents (all of these can be found on the Town's website)? If yes, check the box next to the document(s) you have read. **Please note that familiarity with these documents is not a requirement for serving on an Advisory Group.

Question applies to multiple boards

Superior Comprehensive Plan

◉ Yes ○ No

Question applies to Open Space Advisory Committee (OSAC)

Open Space Summary Report

◉ Yes ○ No

Question applies to multiple boards

Advisory Group Work Plan

◉ Yes ○ No

SAMPLE INTERVIEW QUESTIONS FOR ADVISORY GROUP CANDIDATES – Revised September 2020

1. Why are you interested in serving on (specific Advisory Group)?
2. What role do you think you would play on (specific Advisory Group)?
3. What experience do you have that will be of value to the (specific Advisory Group) and Town?
4. What values or personal characteristics do you think Advisory Group members must possess?
5. Tell us about any previous Advisory Group and or Committee experience you may have?
6. How have you been effective in serving on these Advisory Groups/Committees?
7. Where do you think (specific Advisory Group) should make connections that would help strengthen/build upon their outcomes?
8. What factors in your life might limit your ability to serve?
9. What do you see as specific priorities for your work on (specific Advisory Group)?
10. How do you envision Superior five or ten years from now?

ITEM NO. 2g

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME:	**Update on Prairie Dog Populations in the Town of Superior from the Open Space Advisory Committee (OSAC)**
MEETING DATE:	**January 22, 2024**
PRESENTED BY:	**Leslie Clark, PROS Director** **Amber Graves, OSAC Member**
PRESENTED FOR:	**Presentation**

BACKGROUND:
The Town of Superior has historically had active colonies of the black-tailed prairie dog. Prairie dog populations have fluctuated as environmental conditions and local development activities have changed. The Superior Prairie Dog Management Plan was published in 2005 and updated in 2007, and reviewed in 2022. This plan provides data on prairie dog colonies on Town-owned properties as well as regional prairie dog conservation. Over the years prairie dog populations have dropped significantly throughout the Town of Superior.

The Open Space Advisory Committee (OSAC) is developing a Prairie Dog Playbook to outline action steps for the conservation of remaining prairie dogs in Superior. Currently, the remaining prairie dog population, which is an estimated 300 prairie dogs, exists on the privately held Zaharias property. As part of the playbook development, a review of possible locations for prairie dog translocation has been explored. Staff and OSAC looked into the possibility of re-establishing a historical prairie dog colony along the southern portion of Coyote Ridge Open Space. This portion of the open space is in Jefferson County and they were not in support of this location. Jefferson County is a partner in the conservation easement for Coyote Ridge and responded that they would not support re-establishing this colony due to proximity to existing prairie dog colonies to the south and west, and because their allowable population density for prairie dogs would not accommodate the existing colony at Zaharias

OSAC members conducted research into the relocation of prairie dogs both within Superior and throughout the State. Locations aside from Coyote Ridge Open Space include Pueblo Chemical Depot and Rocky Flats National Wildlife Refuge. Both of these sites have limitations on potential availability, schedule, and approval from Colorado Park and Wildlife. Additional, potential locations for further exploration within Superior include the Harney-Lastoka Open Space, just south of the Coalton Trailhead, and the Verhey property.

Superior Municipal Code addresses existing prairie dog colonies in section 16-25-30, and general protection of wildlife habitat in section 16-14-50

Sec. 16-25-30. - Existing prairie dog colonies.

If there is a healthy, living prairie dog colony located on property to be developed prior to the time of excavation, grading or issuance of a building permit, whichever occurs first, the applicant shall relocate or otherwise remove such prairie dog colony as may be approved by the State Division of Wildlife and the Town prior to any excavation, grading or building on the property. Relocation to a Colorado Division of Wildlife approved site shall occur in a manner that is safe and humane to the prairie dogs. The applicant shall advise the Town in writing of its relocation plans prior to starting the relocation.

Sec. 16-14-50. - Protection of wildlife habitat and habitat corridors.

(b) All developments containing existing reservoirs or drainageways shall be designated so as to protect any significant wildlife habitat or corridor associated with the reservoir or drainageway, and to provide amenities for public use. Floodways shall be left in a natural state, except as approved by the Town.

DISCUSSION:

The Open Space Advisory Committee (OSAC) has an interest in determining a prairie dog translocation site and action plan identified in advance, should future development be approved for the Zaharias property. OSAC also understands that there are other strategies, such as passive relocation and coexistence, that could potentially be enacted should a development proposal allow.

ATTACHMENTS:

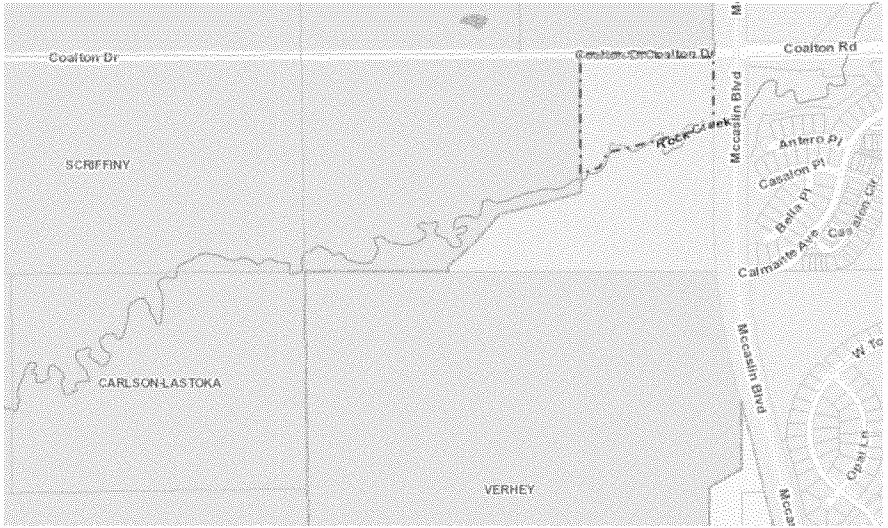
- OSAC Prairie Dog Playbook Presentation Slides
- OSAC Prairie Dog Playbook

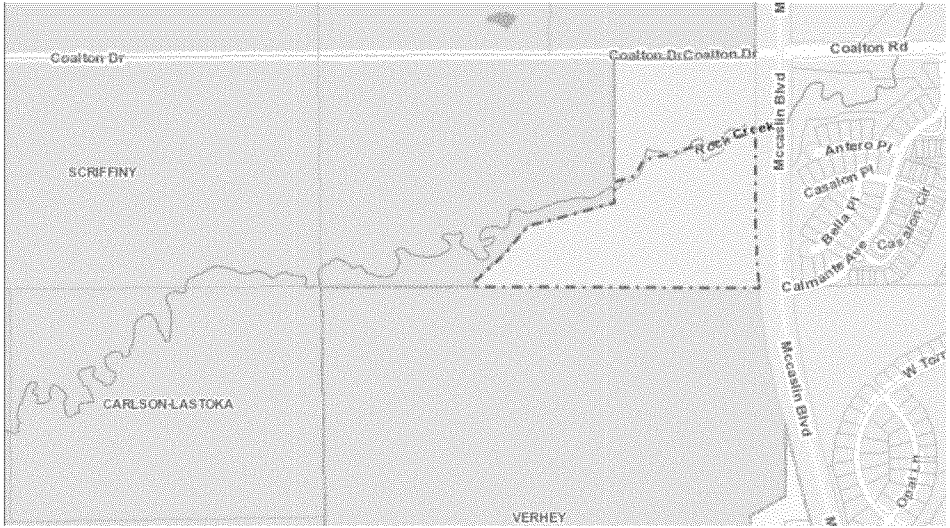
OSAC Prairie Dog Playbook: January 2024

- **Recommended Option for Receiving Site: U.S. Army Pueblo Chemical Depot**
- **Potential Future Option (2024) for Receiving Site: Rocky Flats National Wildlife Refuge - Jefferson County, CO**
- **Currently Unavailable as a Receiving Site: Coyote Ridge Open Space**
- **Additional, Local Options to Explore for Receiving Site**
- **Development Approval Considerations**

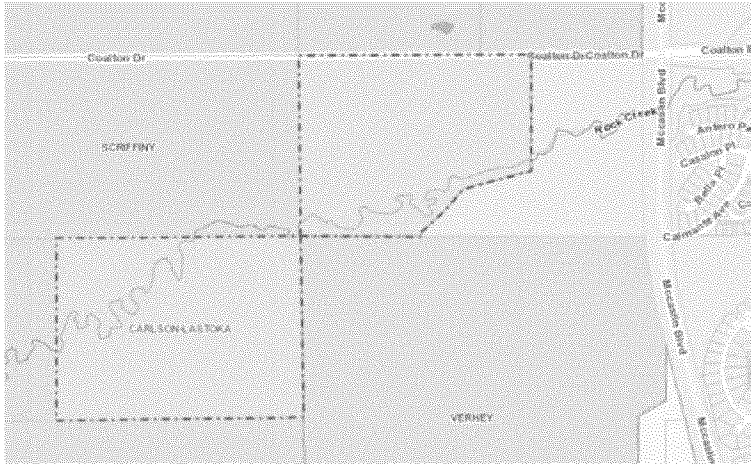
11/8/2023 OSAC Recommendation to Town Board: As part of development approval, the developer is required to secure an approved relocator and adhere to the prairie dog translocation plan as outlined in the OSAC Prairie Dog Playbook.

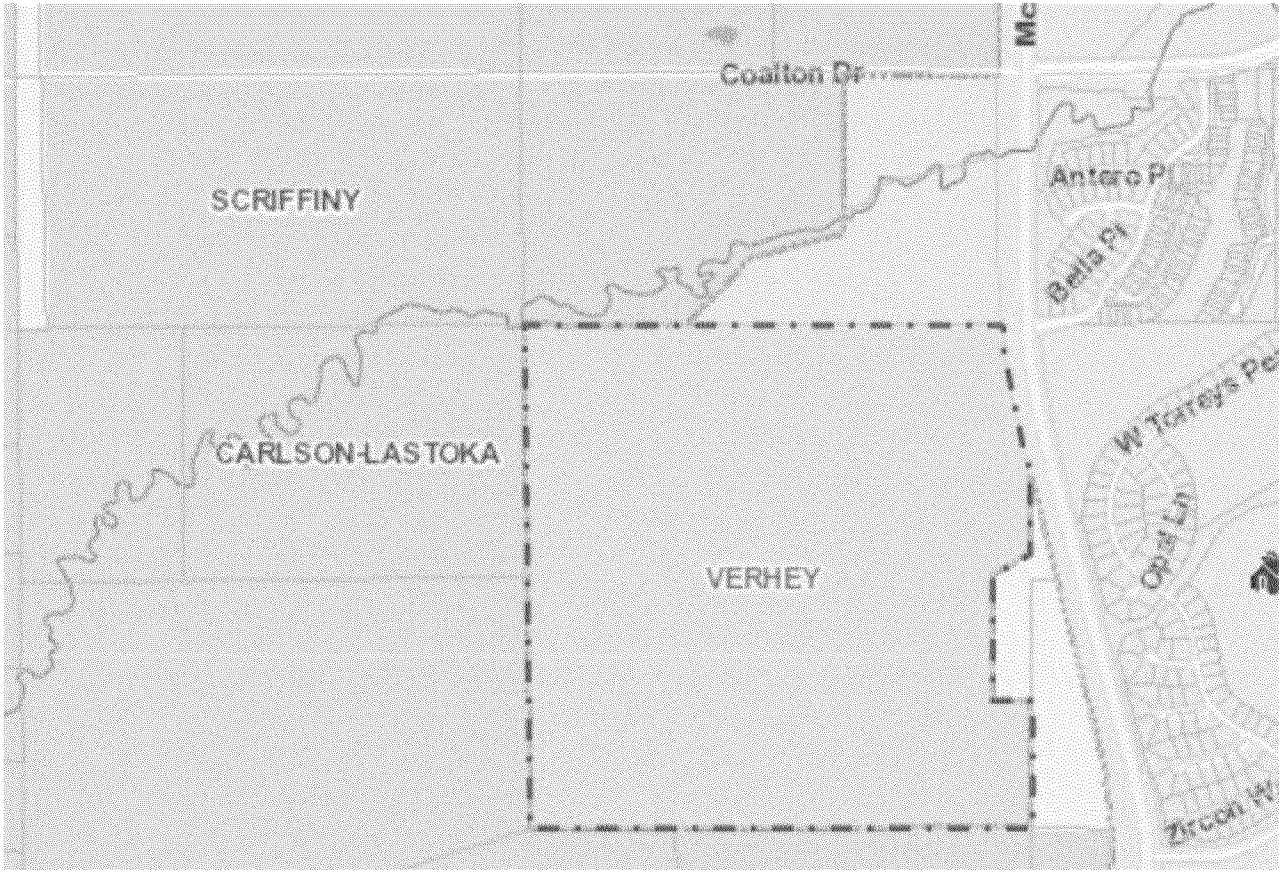
2021 Recommendations for Hodgson-Harris Reservoir Habitat Preservation





Harney-Lastoka




Coalton Dr
SCRIFFINY
Antero Pl
Bella Pl
CARLSON-LASTOKA
VERHEY
Opal Ln

Verhey

Prairie Dog Playbook

OSAC

January 2024

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Potential Future Option (2024) for Receiving Site……5
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Additional, Local Options to Explore for Receiving Site……6
Development Approval Considerations……...7
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Appendix B: Notes on Prairie Dogs……10
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Additional Resources……19

Executive Summary

The Town of Superior Open Space Advisory Committee (OSAC) has developed a prairie dog playbook to encourage action steps for the conservation of remaining prairie dogs within the Town. What remains within town boundaries (not on Boulder County Open Space) is a large colony on the privately-held Zaharias property, which has been the subject of several development proposals. OSAC has made clear recommendations for habitat preservation on the Zaharias property and the adjacent Hodgson-Harris Reservoir. One of these recommendations is relocation of prairie dogs on the site. Across several years of discussion, and based on OSAC's mission and goals, the committee strongly believes in the importance and value of saving this large colony, particularly given the grim decline of the black-tailed prairie dog population locally, across the Front Range, and throughout the United States. Relocation, or "translocation" as it will be referred to here, is the preferred and recommended developer option for the prairie dogs on the Zaharias site, should development be approved by the Town Board.

As previously presented, prairie dog translocations are complex from a timing and logistical standpoint. One of the biggest challenges is securing a release site. OSAC has completed significant research around both logistics and release sites. This playbook is currently comprehensive, but as research into release sites will be ongoing, any future opportunities that arise will be incorporated and presented to the Town Board. The current option available, pending project re-approval in March 2024, is translocation to the U.S. Army Pueblo Chemical Depot in Pueblo, CO. An alternative, potential future option could be translocation to the Rocky Flats National Wildlife Refuge in Jefferson County, CO, though this was not an option for outside counties in 2023. Please see the detailed sections on these sites for additional considerations.

The appendices within this playbook contain previous background and documentation from OSAC regarding the Zaharias site and Hodgson-Harris Reservoir, as well as further information about prairie dogs and their critical roles within the ecosystem.

Note: The terms "relocation" and "translocation" are both used in this playbook. Translocation is defined as the process of moving a colony of prairie dogs for the sake of that individual colony ***and*** *releasing them into a designated area that is part of a larger prairie ecosystem conservation landscape. Most relocations are considered translocations (Jones & Wanek, 2019).*

Recommended Option for Receiving Site: U.S. Army Pueblo Chemical Depot

For more information on the site and black-tailed prairie dog restoration efforts, see: https://www.fws.gov/project/prairie-dog-restoration

Contact:

Rickey Jones
Supervisory Wildlife Biologist
Colorado Fish and Wildlife Conservation Office
U.S. Fish and Wildlife Service
Natural & Cultural Resources Program Manager
U.S. Army Pueblo Chemical Depot
45825 State Hwy 96 E, Bldg 49N
Pueblo, CO 81006
719-549-4228 office
719-251-7515 cell
rickey_jones@fws.gov

PCD Timeline:

- 2022: accepted prairie dogs from end-of-July through October
- 2023: accepted prairie dogs from August through October
- 2024*: mid-March meeting to decide on 1.) whether they will allow prairie dog translocation in 2024; and 2.) accepted window for translocation (likely end-of-July through October)

Efforts Necessary for Translocation to PCD (estim. timeline)- responsible party**

1. Engage Relocator (TDB)- developer
2. Obtain CPW permit and permissions from USFW and US Army Depot via RIckey Jones. Rickey completes release site language. (1-2 weeks)- relocator https://cpw.state.co.us/Documents/WildlifeSpecies/SpeciesOfConcern/BlackTailedPrairieDog/RelocationForms/BTPD-Application-Form.pdf
3. Trap site assessment for population counts, acreage occupied, constraints, Burrowing Owl survey, and coterie boundary identification/ map for PCD (TBD- size of colony)- relocator
4. Dust burrows for flea treatment with Deltamethrin (1 day)- relocator
5. Pre-bait traps for capture, post notification signs (1-2 weeks)- relocator
6. Trap prairie dogs (minimum 14 days)- relocator
7. Prepare relocation sites (site dependent)- USFW
8. Transport dogs to site (4-8 days; size of colony, vehicle availability)- relocator
9. Prairie dogs released on site- USFW

OSAC Translocation Recommendations:

- Vetted relocators
  Blooming Prairie Conservation Services, LLC
  Jenny Bryant, 720.903.0609
  Humane Society of the U.S. Prairie Dog Conflict Resolution
  Lindsey Sterling Krank, 720.938.7855
  Prairie Dog Action
  Deb Jones, 303.324.6829
  Smith Environmental,
  James Moree, 229.344.6801

- Burrowing owl survey and coterie identification must happen prior to relocation

Additional Information:

- General cost estimate for relocation to PDC: $30,000-$50,000
- The process for PDC is first come, first served based on completion of CPW permit.
- PCD has accepted prairie dogs from other sites in Boulder County, such as Longmont and Boulder, where projects ranged from 15-500 prairie dogs
- It is recommended that no more than 100 prairie dogs are relocated in a single day. Prairie dogs may be brought to the site Mondays-Thursdays once approved and the season begins.
- The black-footed ferret reintroduction is on track to begin on the site in November 2023.

**OSAC will update the Board on the results of the mid-march meeting, which will determine the viability of using PCD as a translocation site in 2024.*
***Any effort to save this prairie dog colony will require translocation. This general outline can be applied to any translocation effort; however, the receiving entity may require additional permits or steps, as well as varying timelines.*

Potential Future Option (2024) for Receiving Site: Rocky Flats National Wildlife Refuge - Jefferson County, CO

Rocky Flats National Wildlife Refuge did not accept relocations from out of county in 2023.

Relocations from outside Jeffco require a Jeffco Relocation Application. The application period varies and will be posted at https://www.jeffco.us/4357/Prairie-Dog-Relocation. "There may be some years that conditions do not support relocations. It is our policy to prioritize internal relocations whenever possible so opportunities for outside relocations are extremely limited."

Contact: Jefferson County Invasive Species Management Team

Example of Previous Instructions for Prairie Dog Relocation Out of County to Rocky Flats National Wildlife Refuge:
https://www.jeffco.us/DocumentCenter/View/31829/2022-Jeffco-Prairie-Dog-Relocation-Instructions-RFNWR-pdf

Currently Unavailable as a Receiving Site: Coyote Ridge Open Space

While Boulder County is supportive of prairie dog translocation to Coyote Ridge Open Space, Jefferson County is not. This option is paused unless there is reconsideration. Per Jefferson County's Weed and Pest Management Specialist, the Jefferson County standard is 8 dogs/acre with a 200 ft buffer from any road, adjacent property owner, or developed landscape area. This is a more stringent density standard than CPW requires, which is 16 dogs/acre. By Jefferson County standard, this would require 50-60 acres for an estimated 400 prairie dogs from Zaharias area. Furthermore, a permit would need to be obtained from Jefferson County, in addition to the CPW permit, for a relocation from outside Jefferson County to inside Jefferson County.

Jefferson County Prairie Dog Relocation Out of County to Land Within Jefferson County (NOT including Rocky Flats Wildlife Refuge):

"Only a limited number of applications shall be considered. The number of applications accepted annually may change but shall not exceed three (3). The application period will begin on March 16 and close on May 31, 2023 or once we receive three (3) applications, whichever is sooner. Instructions and deadlines for submittal will be posted at: https://www.jeffco.us/4357/Prairie-Dog-Relocation."

Additional, Local Options to Explore for Receiving Site:

The Town of Superior owns or holds conservation easements for other, larger properties that would offer ideal acreage for prairie dog translocation. These include the Harney-Lastoka Open Space (South) and Verhey properties.

The Harney-Lastoka property was purchased on February 15, 2006 with the Town of Superior designated as the Fee Simple Owner, and Boulder County owning easement rights. As described in the TOS 2010 Open Space Management Plan, "This property is located at the southwest corner of the intersection of Coalton Rd. and McCaslin Boulevard and encompasses approximately 30 acres in southwestern Superior. This property receives very little human use and retains natural mixed-grass prairie characteristics." This property was designated as a No Prairie Dog area because "it is important to maintain this property as a mixed-grass/riparian habitat because its juxtaposition with the prairie dog habitat likely enhances species richness in the area." At the time of the Plan, there was an extensive prairie dog colony to the north and northwest of Harney-Lastoka, on the Mayhoffer open space property owned by Boulder County. This prairie dog activity continues to be present, and is visible along the Meadowlark trail, for example. More recently, Boulder County has relocated prairie dogs to a western portion of the Lastoka site that is owned by Boulder County. The Town has also contracted for goat grazing on Harney-Lastoka to reduce vegetation and mitigate wildfire mitigation risk. It is possible that prairie dog translocation to this site would provide additional fire mitigation strategy and follow-up vegetation control post goat grazing.

The Verhey property was purchased on February 2007 with Boulder County designated as the Fee Simple Owner, and the Town of Superior and the City of Boulder owning easement rights. As described in the TOS 2010 Open Space Management Plan, "This property is also located west of McCaslin Blvd. at the southwest corner of the intersection of Coalton Rd. and McCaslin and lies south of the Harney Lastoka property. It encompasses approximately 155 acres in the southwestern portion of town."

Why continue to explore potential sites within Superior? As noted in the Recommendations for Hodgson-Harris Reservoir Habitat Preservation (2021), priority is placed on relocating prairie dogs within Superior itself due to their essential role as a keystone species within healthy grassland ecosystems. Additionally, OSAC recognizes the beneficial role that prairie dogs play in wildfire mitigation by creating large-scale firebreaks. Because prairie dogs keep plants clipped to the ground either for landscaping to maintain a good visual for predators, or for consumption, they are notorious for creating natural firebreaks and play a beneficial role for humans and animals by keeping plants low. As previously presented to the Town Board, this is referenced throughout scientific literature.

OSAC is interested in exploring the potential for these sites for possible prairie dog translocation and is seeking the Town Board's perspective and support for this process to move forward. Once explored, questions around these potential sites can be answered and included in the prairie dog playbook.

Development Approval Considerations

1. As part of development approval, require the developer to secure a relocator and adhere to a prairie dog translocation plan.

2. Communicate Acceptable Timing of Translocation

While exact timing of translocation would be determined by the relocator, the timing of relocations should occur in the late summer and fall (mid-August to mid-November). Because prairie dogs only breed one time per year, there are better seasons than others. For example, winter relocations may be difficult due to torpor (periods of dormancy) and weather. Spring is a time of birthing and rearing young, and overall populations can be much higher with newborns; most will not do well with relocations or may succumb due to natural conditions. Populations moved in early spring and early summer may contain a high number of juveniles that would not have survived even if they were not relocated. Approximately 50 percent of the juvenile population typically succumbs to natural mortality in undisturbed prairie dog colonies (Hoogland, 1995; Hoogland, 2006). Therefore, relocations are best undertaken 2 to 3 months after first juvenile emergence.

Relocations should be timed to avoid the season when prairie dog females have dependent young and when the pups are big enough to be out of the burrows. Fall is a better time because there is less overall stress in the colony (no breeding, birthing, pup rearing) and most animals are easier to trap given better outside temperatures and the desire to bulk up prior to winter (Jones, T. & Wanek, P., 2019).

3. Communicate Acceptable Translocation Methodology

Most relocators use two methods: live-trapping and flushing (pumping soap suds into burrows to flush out prairie dogs). Only live-trapping and flushing are acceptable; the use of vacuums and fishing with snares are unacceptable because these methods will likely harm the prairie dogs (Jones, T. & Wanek, P., 2019).

4. Survey of Species on Site

Relocation plans must address potential occupancy of the removal site by burrowing owls and other protected species. Surveying for burrowing owls must occur if any construction activity is scheduled to begin between March 15 - October 31. This should be done using a qualified wildlife consultant following Colorado Parks and Wildlife protocols.

https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/Recommended-Survey-Protocol-Burrowing-Owls.pdf

5. Lethal Management

OSAC's recommendation is translocation to save this prairie dog colony. OSAC opposes any methodology of lethal management that would cause unnecessary distress to the prairie dogs on this site. This includes donation to wildlife recovery centers, which involves additional steps and trauma for prairie dogs. Should lethal management occur, the most humane methodology should be employed that does not require trapping first. This would be the use of carbon monoxide, in which an ignited gas cartridge is placed into burrows or a Pressurized Exhaust Rodent Controller (PERC™) is utilized.

Please see Appendix 2: Lethal Control from "Creating Prairie Dog Management Plans: A Guide for Local Governments and Stakeholders, Part 3: Appendices and Attachments" for further elaboration.

Appendix A: Background

The Town of Superior's Open Space Advisory Committee (OSAC) has a mission that includes the promotion and protection of wildlife. In alignment with this mission, the committee is focused the following, related goals:

- To advocate for the conservation and restoration of natural resources for the benefit of the environment and for the education and enjoyment of current and future generations.
- To promote the conservation and protection of wildlife, including providing input on development projects and conserving healthy wildlife resources, within the Town of Superior.
- To collaborate with surrounding open space organizations on issues of mutual interest including future open space acquisitions, wildlife conservation and protection, and the connectivity of trails and access within the region.

Within the Town of Superior, the prairie dog population has significantly reduced since being classified as "common-abundant" in 2003 (Smith p. 113). Currently, the only remaining prairie dog population (not on Boulder County Open Space) exists on the privately held Zaharias property, located on 88th St. between the Saddlebrooke Townhomes and U.S. 36. The Zaharias property encompasses approximately 28 acres, with prairie dog activity prominent on the upland portion of the site.

Per OSAC document Recommendations for Hodgson-Harris Reservoir Habitat Preservation Open Space Advisory Committee (OSAC) Position Paper – updated August 2021:

"It has been OSAC's recommendation for many years that the Zaharias property adjacent to HHR be acquired and preserved as Town of Superior open space. However, given the possibility of development immediately adjacent to HHR on the Zaharias property, OSAC has created a set of recommendations for habitat-sensitive development. These recommendations would help minimize disruption to the existing habitat and enhance the value of HHR for both wildlife and residents of Superior."

If a development project is approved for the Zaharias property adjacent to HHR, one of the OSAC recommendations is to relocate the prairie dogs from the property to a receiving site listed within this plan.

Superior, CO Municipal Code states:

Sec. 16-25-30. - Existing prairie dog colonies.

If there is a healthy, living prairie dog colony located on property to be developed prior to the time of excavation, grading or issuance of a building permit, whichever occurs first, the applicant shall relocate or otherwise remove such prairie dog colony as may be approved by the State Division of Wildlife and the Town prior to any excavation, grading or building on the property. Relocation to a Colorado Division of Wildlife approved site shall occur in a manner that is safe and humane to the prairie dogs. The applicant shall advise the Town in writing of its relocation plans prior to starting the relocation.

(Ord. O-10 §1, 2010)

Appendix B: Notes on Prairie Dogs

Adapted from Jones & Wanek (2019)

Prairie dogs are one of the most controversial and widely misunderstood wildlife species in North America. Since early European migration onto the North American grasslands, prairie dogs have been celebrated as an essential keystone species for healthy grassland ecosystems, but also vilified, and in some locations, managed as destructive rodent pests. Human-caused changes to the grasslands stemming from crop agriculture, livestock grazing, energy development, residential and commercial development, prairie dog shooting, poisoning campaigns and plague (an introduced disease) have caused the five species of prairie dogs to disappear from an estimated 87 to 99 percent of their historic (1800s) range, depending on the species.

Prairie Dog Roles in the Ecosystem

Burrowing mammals, including prairie dogs, have important roles in grasslands. Prairie dogs are considered by most biologists to be a “keystone species” and/or “ecosystem engineer” (see Ceballos et al., 1999; Kotliar et al., 1999; Kotliar et al., 2006). Keystone species play a critical function in determining the structure of natural communities, and their removal causes substantial changes in species composition and other characteristics of the ecosystem. A keystone species is defined as a species that has unique and significant effects on its ecosystem that are disproportionately large relative to the species’ abundance (Kotliar et al., 2006). Ecosystem engineers modify the availability of resources to other species by physically altering environments. Ecosystem engineers can be considered keystone species because of their engineering abilities and relative rareness, but a species may also be considered a keystone for other reasons, such as its role in the food chain (Jones et al., 1994). Prairie dogs contribute to shaping grassland ecosystems in three main ways: burrowing, grazing and providing food or habitat for associated species (Kotliar et al., 2006).

- Burrowing

Through burrowing, prairie dogs turn the soil, redistributing nutrients and minerals (Kotliar et al., 2006) and allowing water to penetrate the ground, leading to faster groundwater recharge (Martínez-Estévez et al., 2013). Burrows also provide important habitat for associated species.

- Grazing

All prairie dog species are herbivores; when available, grasses make up a major component of their diet along with forbs (flowering plant species) and shrubs. They also eat seeds (Slobodchikoff et al., 2009). Over time, prairie dogs may significantly change vegetation composition within their colonies via grazing and clipping (Lehmer et al., 2010). Black-tailed and Mexican prairie dogs prefer short vegetation (less than 12 inches tall) to increase visibility so they can scan for predators (Hoogland, 2006b). Through foraging and clipping of

vegetation, they create unique islands of grassland habitat, maintaining a low, dense turf of forbs and grazing-tolerant grasses (Martínez-Estévez et al., 2013; see Figure 3).

Prairie dog grazing and burrowing may cause plant composition and heterogeneity to change over time. Studies on the effects of vegetation consumption by black-tailed prairie dogs on mixed-grass prairie in South Dakota indicated that within two years of prairie dog colonization, mixed grasses were reduced by 50 percent. As grass cover decreased, forbs increased until they were almost equal to the previous cover of grasses. A similar pattern was observed in other colonies (Detling, 2006). There are distinct zones on prairie dog-occupied sites where the core of a colony that has been occupied the longest is predominantly comprised of forbs, annuals and shrubs. In transition zones or newly colonized areas, plant composition is a mixture of perennial grasses and forbs (Slobodchikoff et al., 2009). Vegetative changes from predominantly grasses to forbs and dwarf shrubs increase plant diversity. This provides favorable habitat patches for other animals such as bees, birds and insects, thus increasing diversity of other wildlife species (Detling and Whicker, 1987). In well-established shortgrass prairie, buffalo grass and blue grama are resilient to prairie dog grazing.

By keeping vegetation short within colonies, black-tailed prairie dogs may suppress undesirable weedy species. Plants considered weeds that are consumed or clipped by prairie dogs include black nightshade, death camas, foxtail, horsetail, knotweed, plantain, three-awn and spurge (Hoogland, 1995). Russian thistle, brome, prickly lettuce, goosefoot and kochia have also been either consumed or clipped by prairie dogs (Clippinger, 1989; Hoogland, 1995). Short vegetation in prairie dog towns may serve as firebreaks (Kotliar et al., 1999).

- **Allies in Fire Mitigation**

Because prairie dogs keep plants clipped to the ground either for landscaping to maintain a good visual for predators, or for consumption, they are notorious for creating natural firebreaks and play a beneficial role for humans and animals by keeping plants low. This is referenced throughout scientific literature. Ex: “By serving as firebreaks, prairie dog colony sites affect the role of fire in the ecosystems of western North America.”

Kotliar, N. B., Baker, B. W., & Whicker, A. D. (1999). A critical review of assumptions about the prairie dog as a keystone species. *Environmental Management*, 24(2), 177–192.

Kotliar, N. B., Miller, B. J., Reading, R. P., & Clark, T. W. (2006). The Prairie Dog as a Keystone Species. In J. Hoogland (Ed.), *Conservation of the Black-tailed Prairie Dog: Saving North America’s Western Grasslands* (53–64). Washington, DC: Island Press.

Prairie dogs also reduce stands of non-native plants and grasses, which improves the health of grasslands in open space. Many of the plants in prairie dog towns are also naturally fire

resistant. There are recent, local examples that support the impact of prairie dog colonies on wildfire mitigation.

- Associated animal species

Many species are either dependent on prairie dogs or strongly associated with prairie dog colonies (Kotliar et al., 2006). The following are just a few of the species that meet four criteria for dependence on prairie dogs: they are more abundant on prairie dog colonies than elsewhere; they use features that are specific to colonies (such as burrows); their populations increase or decrease along with fluctuations in prairie dog populations; and their chances of survival or reproduction are higher on colonies than elsewhere (Kotliar et al., 2006, Augustine and Baker, 2013). These species either depend on prairie dogs for food or prefer to use the habitats that prairie dogs create and maintain.

-Mountain plovers: Mountain plovers are small birds who frequently nest on prairie dog colonies because they prefer open, level ground with short vegetation. Mountain plover numbers have declined alongside prairie dog numbers in recent decades (Kotliar et al., 2006). Multiple factors are involved in the decline of mountain plovers; loss of nesting habitat on black-tailed prairie dog towns is a significant one.

-Western burrowing owls: Unlike most other owls, burrowing owls nest in underground burrows and are active during the day. Western burrowing owl migratory range stretches from Canada to Mexico and from the West Coast of the United States to the central Great Plains. They depend on colonial burrowing rodents like prairie dogs, and their nests are most often found in black-tailed prairie dog towns. Successful nesting is more likely when there are more active burrows around the nest site. The owls move their young to a new burrow at 10 to 14 days, presumably to avoid predation or nest parasites. Black-tailed prairie dog colonies are one of the few habitats with enough burrows to provide these “satellite” nests (Klute et al., 2003). Burrowing owls are hunted by some of the same predators who hunt prairie dogs, and the owls “eavesdrop” on prairie dog alarm calls, increasing their vigilance in response to prairie dog predator warnings (Bryan and Wunder, 2014).

Though burrowing owls occupy the majority of their historical range and may be stable or increasing in some areas, in other areas their populations have shrunk and fragmented as both grasslands and prairie dogs declined. The owls are facing significant population declines in the northern, western and eastern edges of their range (Klute et al., 2003). Along with impacts on wintering grounds, a primary cause is the loss of burrowing rodents. Burrowing owls favor active prairie dog colonies for nesting sites, and have moderate to high site fidelity, returning to the same prairie dog colonies or nesting burrows year after year (Butts and Lewis, 1982; Klute et al., 2003). Without maintenance engineers like prairie dogs, burrow habitat becomes unusable for the owls in one to three years (Klute et al., 2003). Maintenance of large, active prairie dog colonies is therefore important to burrowing owl reproductive success.

-Raptors: Raptors who prey on prairie dogs include ferruginous hawks, golden eagles, bald eagles, red-tailed hawks, Swainson's hawks, rough-legged hawks, northern harriers and goshawks (Slobodchikoff et al., 2009). Raptors dependent on prairie dogs, according to Kotliar et al.'s (2006) definition, are American kestrels (who feed on smaller prey such as insects that are more abundant or easier to hunt on prairie dog colonies), ferruginous hawks and golden eagles. Prairie dogs appear to be particularly important to ferruginous hawks, who depend on them as a food source in the winter (Gietzen et al., 1996). Raptors appear to use urban prairie dog colonies as much as, if not more than, rural colonies; for most raptors, the number of prairie dogs appears to influence their use of colonies more than the degree of urbanization (Weber, 2004).

-Black-footed ferrets: Black-footed ferrets are one of the rarest mammals in North America and are listed as "endangered" under the Endangered Species Act. They specialize in hunting prairie dogs, which comprise over 90 percent of their diet (Miller et al., 1996). As prairie dogs declined, black-footed ferrets were nearly lost to extinction, but the last known wild population persisted in the vicinity of Meeteetse, Wyoming, until early 1987. Some of those Meeteetse ferrets were captured and used to start a captive breeding program. Captive-born ferrets were reintroduced to Shirley Basin, Wyoming, in the early 1990s, and since then captive-bred ferrets have been reintroduced to numerous other sites in a variety of states (Luce, 2006a). All ferrets in the wild are reintroduced and thus are managed as "experimental, non-essential" populations under a 10(j) rule, which is less protective than a full "endangered" or "threatened" listing.

All wild ferret populations remain small, fragmented and intensively managed. Only a few of the wild populations contain adults that were born in the wild. The U.S. Fish and Wildlife Service has been clear that the fates of black-footed ferrets and prairie dogs are linked. That agency stated in the Black-footed Ferret Recovery Plan that "the single, most feasible action that would benefit black-footed ferret recovery is to improve prairie dog conservation" (USFWS, 2013b).

-Other mammals: Other mammals who depend on or benefit from prairie dog colonies for food and habitat include swift foxes, American badgers, black-tailed jackrabbits, coyotes, deer mice, eastern cottontails, northern grasshopper mice, striped skunks and thirteen-lined ground squirrels (Kotliar et al., 2006).

-Herptiles: Some amphibians (Great Plains toad, plains spadefoot toad, tiger salamander and Woodhouse's toad) depend on prairie dog colonies for habitat and breed more successfully on colonies than elsewhere; the same is true for a number of reptiles (Texas horned lizard, ornate box turtle, prairie rattlesnake, Western Plains garter snake) (Kotliar et al., 2006; Shipley and Reading, 2006). Many of these species use prairie dog burrows as hibernacula.

- Ecosystem services

"Ecosystem services" are all of the ways ecosystems and their component species sustain human life. They include the atmosphere that makes our planet habitable, the air we breathe, the water we drink, the food we eat, the materials we use and the aesthetic experiences that inspire us and inform our cultures (Millennium Ecosystem Assessment, 2005). Prairie dogs provide the following ecosystem services and probably others not yet discovered:

Increased groundwater recharge and water penetration (Martínez-Estévez et al., 2013; Outwater, 1996; Detling, 1998)

Soil aeration (Kotliar et al., 2006)

Carbon sequestration (Martínez-Estévez et al., 2013)

Nutrient cycling via burrowing and defecation (Kotliar et al., 2006)

Increased nitrogen content of soil and plants (Holland and Detling, 1990; Detling, 1998)

Creation of a diverse mosaic of grassland habitats (Detling and Whicker, 1987; Slobodchikoff et al., 2009; Detling, 2006)

Prevention of desertification via mesquite and woody plant control (Weltzin et al., 1997; Ponce-Guevara et al., 2016)

Fire breaks (Kotliar et al., 2006)

Habitat creation and food provision for dependent and associated species (Kotliar et al., 2006)

Preservation of the black-footed ferret, a species listed as "endangered" under the Endangered Species Act (USFWS, 2013b)

Wildlife-viewing opportunities for diverse species including prairie dogs themselves, mammalian carnivores and raptors (Kotliar et al., 2006; Slobodchikoff et al., 2009)

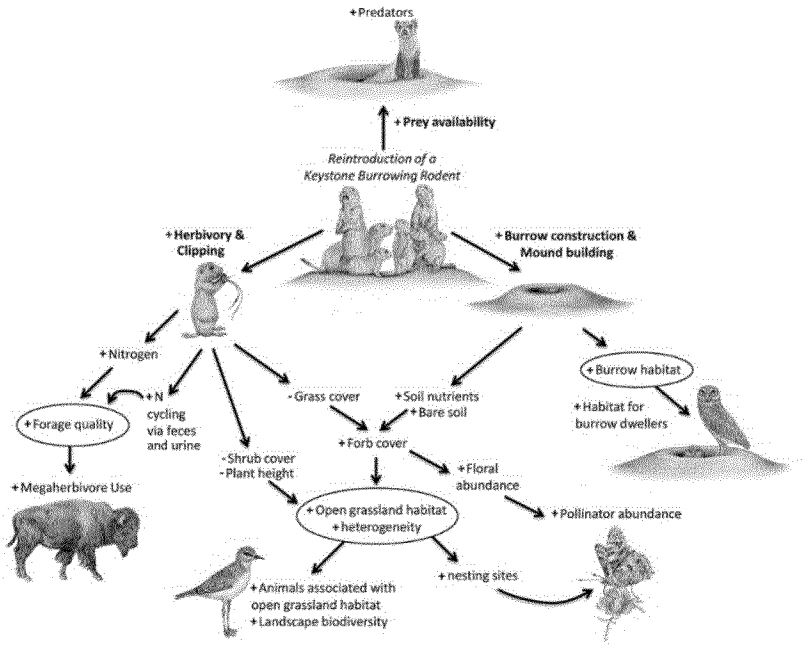


Diagram showing the food chain (herbivory, predation) and ecosystem engineering (vegetation clipping, burrowing) effects of prairie dogs on grassland ecosystems. Plus signs indicate an increase; minus signs indicate a decrease. Source: A. Davidson.

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Additional Resources

Prairie Dog Coalition: Prairie Dog Action Packet
https://www.humanesociety.org/sites/default/files/docs/PDC%20ACTION%20PACKET%202014.pdf

Quick Guide to Prairie Dogs and Their Ecosystems
https://www.prairiedogcoalition.org/brochure

Prairie Dog Barriers: An Overview
https://www.humanesociety.org/sites/default/files/docs/Attachment1_Barriers.pdf

Prairie dogs, people and plague: A report collated by the Prairie Dog Coalition, HSUS and the Colorado CDC
https://www.humanesociety.org/sites/default/files/docs/Plague%20Report-%20Final%20Copy.pd

MEETING NOTES
Superior Open Space Advisory Committee (OSAC)
Wednesday, January 10, 2024
6:00 PM
Superior Community Center

1. **Call Meeting to Order**
2. **Preliminary Matters**
   a. **Roll Call** Kara Neuse, Mike Mcdonnell, Amber Greves, Rita Trainor present in person. Cristi Verbeck and Jeff Wade present via Zoom. Staff present: Leslie Clark and Phary Ohm.
   b. **Agenda Approval**
   c. **Public Comment** Peter Ruprecht spoke about HHR and reiterated that a buffer of 100-300 feet is the range needed if the Zaharias property is ever developed.
3. **OSAC Discussion Items**
   a. **Friends of Coal Creek Presentation** Casey Lyons founder and Executive Director of Friends of Coal Creek came to speak about the organization. They are a nonprofit that support beauty, biodiversity and resilience of Coal Creek. Currently their focus is on pollinators. Their vision is to have a corridor of durable, high-quality habitat all along the 35 miles of Coal Creek. They are trying to create a pollinator corridor all along Coal Creek.
   b. **Staff Updates** Coyote Ridge Open Space Master Plan going to board 1/22/24. Goat grazing has been successful at Vista Corridor and now they are being moved to the water treatment plant.
   c. **Discussion of Community Involvement Project for 2024** Multiple ideas considered, no decision made.
      - Community gardens, with potential for involvement with ACES and PARC
      - Invasive species aka noxious weeds
      - Coyote Ridge input on implementing the plan
      - Pollinator gardens
      - Seeding education (like goats after they've grazed).

   One suggestion made by a resident attending was to reach out to our local schools for volunteers from the student body to involve our future leaders in this effort.
   d. **Invite Kevin to our February or March Meeting to Discuss Marketing our community outreach events, programs, and open space amenities** Asked Leslie to have him or a team member come and explain when all of our publications come out so we know when we need to get information out.
   e. **Prairie Dog Plan Update** Amber Greves will be presenting to the board on 1/22/24. She won't know if the Pueblo site is a possibility until March of 2024. There are three possible sites in or near town, the most promising one is Harney-Lastoka. Verhey is another

possible site. We would need approval from Boulder County as they have conservation easements on these sites.

f. **National Trails Day Date and Location** June 1st is National Trails Day and the group agreed to have our Trails Day held on that same date and to again have it at Coalton Trail head.

g. **Trails/Open Space Requests to Boulder County** The group decided to submit the Industrial Mines Trail, the ADA trail at Coyote Ridge and parking lot as trail head, Marshall Road underpass and the Underpass at McCaslin by the Oermann Roche trailhead. It was also decided to remove the 1st Street connector as that has been designed and construction is scheduled to begin this fall. Also to be removed, from our trail requests is the Coalton Trail rework as that work is in process. Our Open Space requests will be for Zaharias, Bolejack and Coal Creek Properties.

h. **OSAC Roundtable**

- Tracey indicated that she is looking for feedback on the annual wildlife report she circulated to the group. Members indicated that thought it was good and they had no questions.
- 16 new volunteers have been added to the wildlife team.
- Tracey's wildlife team would like to read their statement to the town board at the town board's January 22nd meeting for retaining dead trees as habitat for wildlife. They also sought OSAC's endorsement of the statement. OSAC passed a motion to endorse it. Amber moved, Kara seconded, passed unanimously. The motion reads:
  OSAC endorses and encourages the Town Board to embrace the value of dead and downed trees as outlined in the Wildlife Encouragement Team's statement entitled "Maintain Vital Habitat to Protect Our Local Wildlife."

- Commissioner Miller suggested for trails day that we could come up with a "passport" for visiting all of the trails in town and turning it in later, like at Chili Fest. The idea is to make people aware of trails that they might not even be aware of and to encourage people to get out and enjoy our wonderful open spaces.
- The development of Red Tail Ridge is coming up again for consideration in Louisville on 2/6/24.

i. **Leadership Elections and 2024 Assignment of Committee Duties** Kara Neuse will continue as Chair and Rita Trainor will continue as Vice-Chair.

4. **Updates & Lookaheads:**

a. **Standing Updates**

- **Rocky Mountain Greenway (Rocky Flats)** A federal lawsuit has been filed attempting to halt the Rocky Mountain Greenway project over concerns the trail would be built over "heavily contaminated" areas.
- **Raptor Program**
- **Wildlife Monitoring Program**
- **Trail Etiquette** The joint group is moving forward and are currently in the process of evaluating plans developed by other units of government.
- **Wildfire Update** Cristi advised that Wildfire Partners offers free wildfire assessments of property and makes recommendations of what can be done to reduce the risk of wildfire to your property.

5. Adjourn 8:10 PM

PROCLAMATION
DECLARING THE WEEK OF JANUARY 22, 2024
NATIONAL GUN VIOLENCE SURVIVORS WEEK

This proclamation declares the week of January 22, 2024 to January 26, 2024, to be National Gun Violence Survivors Week in the Town of Superior honor and remember all victims and survivors of gun violence and uplift the resilient voices of survivors across the nation.

WHEREAS, every year, more than 43,000 Americans are killed with guns, approximately 76,000 more are shot and wounded, and countless others experience the collective trauma of gun violence; and

WHEREAS, every year, on average, 930 Coloradans are killed in acts of gun violence and nearly 466 more are shot and wounded; and

WHEREAS, in advance of early February, when more Americans are killed with guns than are killed in our peer countries in an entire calendar year; and

WHEREAS, a gun violence survivor is anyone who has personally experienced gun violence — whether you have witnessed an act of gun violence, been threatened or wounded with a gun, or had someone you know and cared about wounded or killed; and

WHEREAS, forms of gun violence can include, but are not limited to: gun suicides, gun homicides, domestic violence involving a gun, shootings by law enforcement, mass shootings and unintentional shootings; and

WHEREAS, 59 percent of adults in America, including 71 percent of Black and 60 percent of Latinx Americans, or someone they care about has experienced gun violence in their lifetime, demonstrating the reach and impact gun violence has in communities across America; and

WHEREAS, firearms are the leading cause of death for children and teens; and

WHEREAS, people in America, in cities across the nation are working to end the senseless violence by advocating for common sense gun safety legislation; and

WHEREAS, by commemorating National Gun Violence Survivors Week on January 22 to January 26, communities across America will raise awareness about gun violence and honor the lives stolen by gun violence; and

WHEREAS, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the hands of those who are a danger to themselves or others and encourage responsible gun ownership to help keep our communities safe.

NOW, THEREFORE BE IT PROCLAIMED*, the Mayor and Trustees of the Town of Superior declares January 22 to January 26, 2024 to be National Gun Violence Survivors Week. We encourage all citizens to support their communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.*

PROCLAIMED this 22nd day of January, 2024.

_____
Mark Lacis, Mayor

ITEM NO. 3d

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: **Consideration of Approval of 2024 Advisory Committee Work Plans – Superior Historical Commission (SHC), Superior Youth Leadership Council (SYLC), Planning Commission (PC), Cultural Arts and Public Spaces (CAPS), Advisory Committee for Environmental Sustainability (ACES)**

MEETING DATE: **January 22, 2024**

PRESENTED BY: **Matt Magley, Town Manager**

PRESENTED FOR: **Presentation/Action**

BACKGROUND:
Each year the Town Board reviews and approves the proposed annual Work Plans for each of the Town's Advisory Committees and Commissions. This process has been very productive and successful, and provides direction and guidance to the Town's advisory committees.

The Board will find attached the recommended Work Plans for this year as submitted by the Superior Historical Commission (SHC), Superior Youth Leadership Council (SYLC), Planning Commission (PC), Cultural Arts and Public Spaces (CAPS) and Advisory Committee for Environmental Sustainability (ACES). Representatives from each of these groups are in attendance to answer questions from the Board.

Each of the advisory committees invested significant time and thought into developing their Work Plans, and have recommended a specific list of projects for the year. They will use these Work Plans as direction from the Board on what to work on over the course of 2024. As always, the Board may wish to make edits as necessary to these Work Plans to ensure the advisory committees have clear direction.

MOTION:
Move to approve advisory committee Work Plans for 2024: Superior Historical Commission (SHC), Superior Youth Leadership Council (SYLC), Planning Commission (PC), Cultural Arts and Public Spaces (CAPS) and Advisory Committee for Environmental Sustainability (ACES).

ATTACHMENTS
- 2024 Advisory Committee Work Plans:
  - Superior Historical Commission (SHC)
  - Superior Youth Leadership Council (SYLC)

- Planning Commission (PC)
- Cultural Arts and Public Spaces (CAPS)
- Advisory Committee for Environmental Sustainability (ACES)

Town of Superior

Superior Historical Commission (SHC)

2024 Work Plan – Final Draft

ONGOING

1. Programming:
   a) Consider and support Town facility (including but not limited to the Superior Community Center, 'Civic Space' and Downtown Superior) activation and usage, improvements and programing as it relates to the committee's scope of work, mission, projects and programs.
   b) Plan for the display of exhibits.
   c) Continue to coordinate with Greater Denver Lions Club on the Marshall Fire memorial project.
   d) Continued momentum with the history of Arapahoe and other Indigenous communities.
   e) Finalize Grasso Park, bungalow and outbuilding histories.

2. Collection & Asset Management:
   a) Continue work on PastPerfect collection catalog.
   b) Coordinate with Lafayette Fire Department for fire engine photo shoot.
   c) Re-evaluate the process for future collections of historical items and explore opportunities for potential volunteer assistance.
   d) Create a maintenance, practice and procedure plan for fire engine.
   e) Continue acquiring replacement artifacts from individual donors as well as from the Lafayette, Louisville, Broomfield and Boulder history museums.
   f) Continue developing oral histories that are relevant to Superior and the surrounding areas, add them to the commissions collection, and encourage Commission members and volunteers to receive training in conducting oral history interviews.
   g) Work with staff liaison on maintenance for the upkeep and of the Grasso Park jail cell, out buildings, fire engine and the Town's historic cemetery.
   h) Update "wish list" for replacement artifacts based on donations during 2023 and arrange for delivery and storage of donated items until permanent museum is completed.

3. Outreach & Education:
   a) Continue with ongoing encouragement of new members to the Commission.
   b) Participate in the annual Colorado Preservation Inc. conference (2024 in Boulder) and continue participation in ANFRM and Boulder Heritage Roundtable.
   c) Consider recruiting students from middle school and high school as museum volunteers.
   d) Continue working with Superior Chamber, CAPS and/or the Town events staff to expand upon the Community outreach regarding Historic sites and education.

4. Fundraising:
   a) Pursue possible grants or financial aid for lost artifacts.
   b) Continue throughout the year to coordinate with staff on the purchase of budgeted items for historic preservation, education and promotion.
   c) Review the "deferred" carryovers from 2023 and evaluate against allocation for 2024.
   d) Track external grant opportunities and support town staff in search of grants and fundraising.
   e) Consideration of a membership model that encourages individuals and businesses to support the ongoing work of the SHC.

5. Communications:
    a) Promotion of programs to the public to include actions such as the PROS Newsletter, a dedicated Historical Commission e-newsletter, rooftop drops and seasonal activity guide. Continue monitoring the condition of the structures in Grasso Park and Bungalow Museum to make recommended repairs as necessary.
    b) Continue with Publications List or "mass media" list to catalog communications resources available to the SHC.
    c) Continued review of "Arts & History webpage build with staff liaison.

QUARTERLY BREAKDOWN

First Quarter – Jan, Feb, Mar

1. Hold leadership election for Chair, Vice Chair and Secretary positions.
2. Make decisions and recommendations regarding the temporary museum as a permanent agricultural museum.
3. Devise a plan to increase communication to the public through mailings and through the Town calendar.
4. Organize meetings with the historic museums in Lafayette and Louisville.
5. Begin planning process and securing a speaker for hosting Annual Spring Program.
6. Consider developing audio tours using QR codes for historic sites in Town.
7. Continue work with Boulder County Open Space requesting permanent signage and a potential trail at the Industrial Mine site.
8. Planning and coordination for a future Miner's Memorial at Asti Park.
9. Establish schedule for re-assimilation of mine camp house in Asti Park and update monthly as rebuild progresses.
10. Establish a request for information (RFI) process based on available media. Maintain a list of RFIs and how answered.

Second Quarter – Apr, May, Jun

1. Spending options for past monetary donations.
2. Work to identify dates and establish an agenda for the second-grade field trips that will take place in September.
3. Host the Annual Spring Program.
4. Host a historic Walking Tour of the Industrial Mine and Mine Camp site.
5. Develop any 2025 budget recommendations that is separate from SHC's annual budget.
6. Participate in the annual Boulder County Historic Roundtable award program.
7. Place an informational brochure at the Oerman-Roche Trailhead providing a brief overview of the Industrial Mine and Mine Camp site.
8. Plan for and coordinate logistics for annual Tombstone Tour if conditions allow.

Third Quarter – Jul, Aug, Sept

1. Participate in July 4th Celebration and coordinate with staff to have the historic fire engine driven in the parade.
2. Host field trips for second grade classes from area schools.
3. Host annual Tombstone Tour if conditions allow.
4. Explore national register nomination for the Industrial Mine site.
5. Follow-up on Miners Memorial.
6. Coordinate participation in neighboring community parades.

Fourth Quarter – Oct, Nov, Dec

1. Revisit the Long-Term Plan and suggest new items for 2025
2. Review expenditures from Historical Donations and Historical Preservation account.
3. If transition to Home Rule occurs after the general election, consider adding documentation to the museum collection.

Town of Superior

Superior Youth Leadership Council
(SYLC)
2023-2024 Work Plan – Final Draft

Fourth Quarter 2024 (OCT-DEC)

- Monster Mash at the Superior Community Center (**October**)
- Lasagna Love (**December**)

Volunteer Opportunities

- En Plein Air (CAPS)
- Eco-Tober (ACES) (**October**)
- Marshall Fire Commemorative Event(s) – Solidarity breakfast (event help and kids corner) (**December**)
- Winterfest volunteer opportunities (**December**)
- Snow Busters – snow shoveling for neighbors

First Quarter 2024 (JAN-MAR)

- STEM activity at the Superior Community Center (**February**)
- Parent's Night Out (**February**)

Second Quarter 2024 (APR-JUN)

- Parent's Night Out (**April**)
- Meeting SYLC committee event (**June**)
- Pickleball event (**End of May / Early June**)

Volunteer Opportunities:

- Ride Autrey Project – bike/skate park clean up
- National Trails Day (OSAC) (**June**)
- Arbor Day Event (**April**)
- Professional skills development mentorship
- Mental Health Opportunities in May (**May**)
- Environmentally friendly volunteer opportunity (**April**)

Third Quarter 2024 (JULY-SEPT)

- 4th of July Kickball Tournament – Organize and facilitate annual kickball tournament (SYLC + Town teams) (**June / July**)
- Metro Mayors Meeting – Learning activity for council members (**August**)
- Senior Send Off Committee Event (**August**)
- New Committee Member Orientation (**August**)

Volunteer Opportunities:

- 4th of July Events (race, parade, pancake festival, SCC)
- Chili Fest (**September**)

ONGOING

- The SPOT at the Community Center – increase youth engagement in and use of the facility. SYLC will be utilizing the space for monthly team building, planned study sessions and additional programs/events where appropriate.

- Consider and support Town facility (including but not limited to the Superior Community Center, 'Civic Space' and Downtown Superior) activation and usage, improvements and programing as it relates to the committee's scope of work, mission, projects and programs.
- SYLC Logo update for Facebook/Instagram

Proposed 2024 Planning Commission Work Plan

The Town of Superior Planning Commission requests direction from the Board of Trustees as to the work plan items listed below that the Board of Trustees would like the Planning Commission to prioritize or any additional items that the Board may wish to add.

1. Review Comprehensive Plan, gather information, and provide recommendations for targeted Comprehensive Plan updates.

2. Review, comment and provide recommendations on development projects.

3. Review and comment on major capital improvement projects (i.e. road infrastructure projects, new functional plans, etc.).

4. Planning Commission agendas will include regular updates from staff.
    - Consider issues, problems, and/or challenges resulting from the Marshall Fire that fall within the purview of the Planning Commission, and make associated recommendations to the Town Board, as necessary.
    - Work with staff to develop recommendations for the Town Board to act to revise criteria in the land use code regarding variances for existing conforming or nonconforming properties in order to facilitate reconstruction/rebuilding associated with the Marshall Fire, and appropriate amendments to the land use code.
    - Review Draft Affordable Housing Strategic Plan and promote affordable & attainable housing opportunities.
    - Explore opportunities to encourage and/or incentivize sustainable construction, electrification, energy efficiency (while being mindful of costs), in conjunction with ACES.
    - Keep informed about regional planning with adjacent jurisdictions (Louisville, Lafayette, & Broomfield).
    - Planning Commission agendas will include regular updates from staff.
    - Consider and support Town facility (including but not limited to the Superior Community Center, 'Civic Space' and Downtown Superior) activation and usage, improvements and programing as it relates to the committee's scope of work, mission, projects and programs.

Cultural Arts and Public Spaces

2024 Work Plan_Final Draft

Introduction

The Cultural Arts and Public Spaces (CAPS) advisory committee was chartered to "…envision and create engaging arts and cultural experiences, inspired public spaces, opportunities for community building and to advise the Board of Trustees on such matters." Among other duties described in the founding resolution, CAPS is charged to: "advise the Board of Trustees on the ***selection of art installations and artistic and cultural development*** within Superior; to envision, create and inspire ***active opportunities to engage in fine and cultural arts*** within Superior; to develop, energize and ***activate public spaces*** that reflect the spirit, culture and heritage of Superior; and to ***cultivate opportunities to gather and create community*** in Superior."

Our 2024 Work Plan is derived principally from the Placemaking Plan and our charter, but augmented with the changing needs of our community, the passions and interests of the committee members, and funding provided in the Town's 2024 Budget.

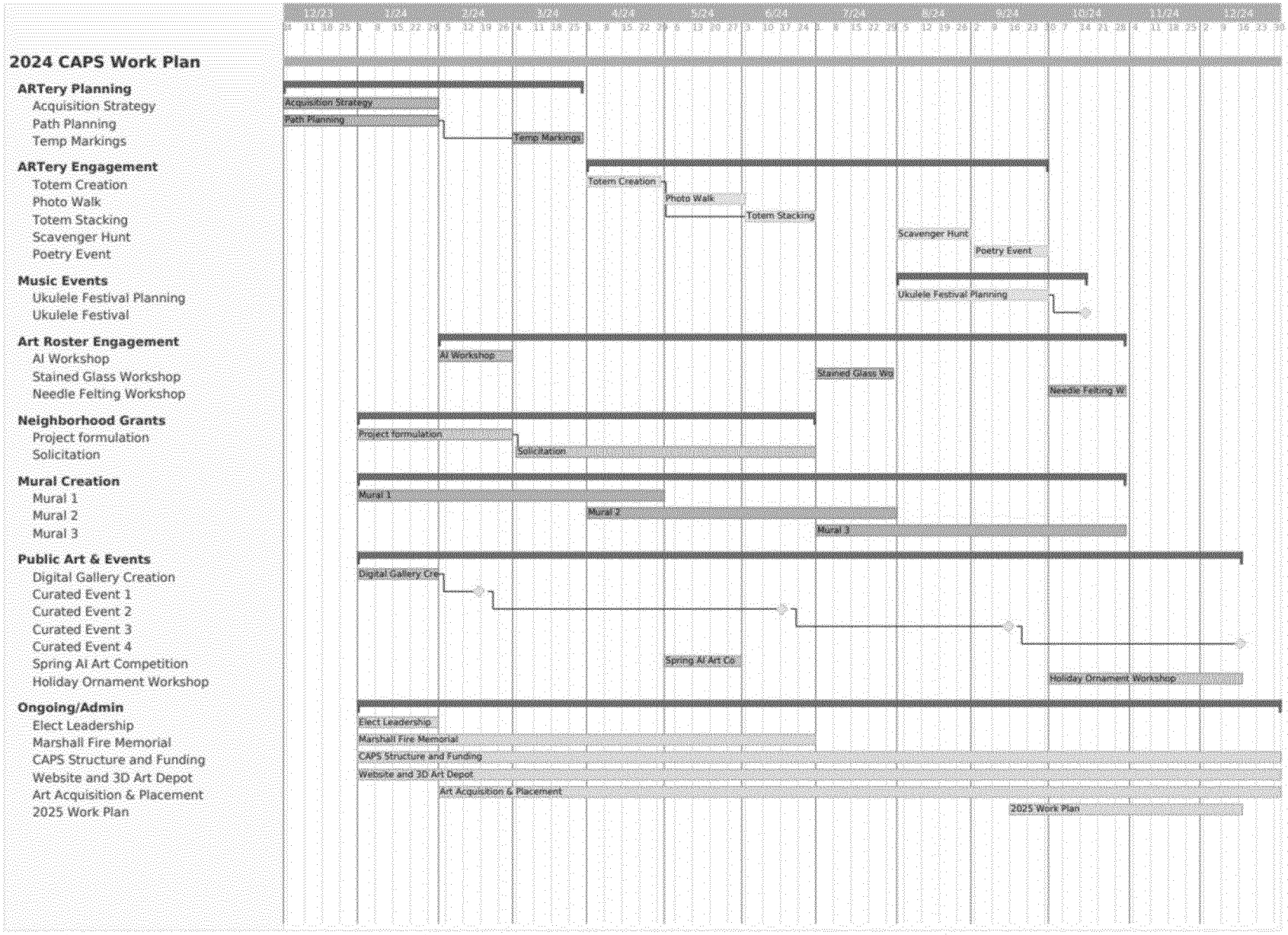
Our goal in 2024 is to engage Superior residents in creative and meaningful ways, while activating some of the beautiful new spaces in town, including: the nascent Superior ARTery, the Superior Community Center, Downtown Superior and the Plaza, public parks around town, and eventually the new Civic Space. We hope to build momentum with our engagement by utilizing frequent, high-value activities and projects that will generate a sense of *investment* by our residents in our art and programs.

The CAPS 2024 Work Plan is a balance of funding and time. The schedule is outlined in the timeline on the following page, and supported by the subsequent budget table. Every activity has a committee member willing and able to shepherd it to completion. For more details on individual activities and budget breakdown, please see the descriptions at the end of the package.

2024 Work Plan

This timeline on the next page is the "work plan" and captures all of the activities that CAPS will pursue in 2024. All of these events require some level of planning, and currently we don't have timing prescribed to specific dates – however, in January we hope to finalize as many dates as possible, so that we can create a CAPS activity calendar that can be promoted all year, including in Hello Superior! and email communications.

In some cases where significant planning is required (such as the Neighborhood Grants), a bar is dedicated to planning. When planning/prep and the activity feel like one event, only one bar is drawn (such as the December ornament workshop). For minor activities, such as the ARTery activation events, some measure of planning is clearly required but not detailed here, in the interest of clarity. We will resolve the details of these events in our first meeting.


2024 CAPS Work Plan
ARTery Planning
Acquisition Strategy
Path Planning
Temp Markings
ARTery Engagement
Totem Creation
Photo Walk
Totem Stacking
Scavenger Hunt
Poetry Event
Music Events
Ukulele Festival Planning
Ukulele Festival
Art Roster Engagement
AI Workshop
Stained Glass Workshop
Needle Felting Workshop
Neighborhood Grants
Project formulation
Solicitation
Mural Creation
Mural 1
Mural 2
Mural 3
Public Art & Events
Digital Gallery Creation
Curated Event 1
Curated Event 2
Curated Event 3
Curated Event 4
Spring AI Art Competition
Holiday Ornament Workshop
Ongoing/Admin
Elect Leadership
Marshall Fire Memorial
CAPS Structure and Funding
Website and 3D Art Depot
Art Acquisition & Placement
2025 Work Plan
1/1/24
2/1/24
3/1/24
4/1/24
5/1/24
6/1/24
7/1/24
8/1/24
9/1/24
10/1/24
11/1/24
12/1/24

2024 Budget

The activities above have been loosely scoped by the responsible parties, and the estimated budget is shown in the table below. As stated above, we believe that we have lined up a series of events that will be engaging for Superior, are aligned with member interests, and represent a good value for the town. That is, we intend to deliver significant engagement with the community, activation of public spaces, and implementation of public art for a relatively small cost. Note that in the budget, individual events above (such as the ARTery engagement events) are lumped into one line item. See the following descriptions for more details.

It is worth noting that the Plein Air festival is not included in the 2024 budget. Although this was an enjoyable event that seemed to be gaining attention, it was also a large single expense that was planned exclusively by staff (JG Garner), not CAPS. We recommend that if this event, which was fostered for several years by CAPS, remains a priority for the Board, that it should be turned over to Superior's Event staff and provided with additional funding (~$15k).

2024		
Category	**Name**	**Amount**
Art Path	Rent/buy/install artwork	$ 32,000.00
Public Art	Superior Digital Gallery	$ 10,000.00
	Superior 3D Art Depot	--
Events & Programming	Spring AI Art Competition	$ 1,500.00
	Winter Event: Ornament Workshop	$ 1,500.00
	Digital Exhibitions	$ 4,000.00
	Neighborhood Grants	$ 3,000.00
	ARTery Engagement	$ 3,000.00
	Community music events	$ 3,500.00
Elevate Creative Capital	Artist Roster Publicity and Events	$ 1,500.00
	Local artist mural projects	$ 10,000.00
		$ 70,000.00

Project Details

The following sections provide a brief description of each project. These descriptions follow the timeline above in order; please reference the schedule for additional context.

Art Path

The Art Path is a central pillar of the Placemaking Plan. In 2024, and in partnership with our art path consultant hired in late 2023, we intend to make significant strides towards building and promoting the path.

Work that began in December with the art consultant will continue through January, helping to define both a draft route for the physical path itself, as well as strategy and guidance for how to populate the path with artwork in a cohesive and engaging way. We don't want to randomly acquire art and bolt it to the path, but instead to consider neighborhoods and venues, themes and history, and to solicit input from nearby residents to create that sense of investment in the path. *Lindsey is our main point of contact with the consultant, and a sub-committee consisting of Lindsey, Drew, Chris, and Suz is actively working this task.*

We have been working with students at Eldorado K-8 to create stencils that will allow us to use spray chalk to set temporary path markings, so that we can begin to use the path and get feedback on it. This has minimal cost. *Drew is working with Anne Wild at Eldo-K8 on this task.*

After marking a proposed path, we will conduct a series of engagement events on the path. The ideas for these events were developed at a work session with our ARTery consultant, and he will continue to help us develop these ideas for maximum impact. Here is a brief list:

- **Totem creation and placement**: Member Sherry Smith is proficient at working with clay, and proposed an event based on a previous project she executed on her own. Residents will be able to form 'totems' out of clay, emblematic of their interests and emotions, the environment, etc. These totems will be glazed and fired, and then in a follow-up event they can be stacked into mini totem poles along the art path. These totems are low-profile, movable, and likely temporary. *Planned and led by Sherry.*
- **Photo walk**: We will hire a photographer to lead a group of residents in a 'photo walk', where they will learn about their cameras and photographic composition, while utilizing the natural beauty of Superior, the ARTery, and the existing artwork on the path. *Planned by Drew.*
- **Scavenger hunt**: We will create a scavenger hunt that encourages residents to engage with the path, the artwork, and the communities that it navigates. A small budget is allowed for signage, prizes, etc. *Planned by Suz and Drew.*
- **Poetry event**: We will lead a poetry-based event, again utilizing the art path. *Planned by Lindsey.*

Music Events

We are interested in bringing all kinds of art to Superior and activating the public spaces, and performance art is a big piece of this. Up until now, CAPS has been relatively quiet in this area, but member Suz Paxon is passionate about music and performance art, and will lead the planning of a Ukulele Festival to be held in the fall. This medium already has a significant following and we believe we can get critical mass for this event. *Planned by Suz.*

Resources permitting, we may attempt other high-value music events, possibly by utilizing the efforts of the Cultural Caravan out of Boulder (https://www.culturalcaravan.org/).

Art Roster Engagement

The Superior 'artist roster' has been an objective of CAPS for years. It is included in the Placemaking Plan, was specifically identified for pursuit by the Board on the 2023 work plan, and was launched in website form in 2023. We have not seen very much engagement with the roster, so in 2024 we intend to formalize the message around the artist roster and conduct engagement events specifically designed to raise awareness:

- **AI Workshop**: A seminar on creating digital art using AI tools available on the internet. Residents will use their own computers. *Planned and led by Chris.*
- **Stained Glass Workshop**: Residents will learn the art of creating stained glass and will be able to create their own pieces. *Planned and led by Stephanie.*
- **Needle Felting Workshop**: Residents will learn the craft of wool felting and will be able to create their own pieces. *Planned and led by Liza.*

In all cases, residents who attend the workshops will be encouraged to sign up for the artist roster, and in this way we can generate a buzz around the idea and accumulate residents with varied interests.

(Note: the totem creation, photo walk, and poetry event will also serve double-duty as art roster engagement events in those mediums.)

Neighborhood Grants

This is an idea that is identified in the Placemaking Plan as "block parties," and similar ideas have been very popular in neighboring towns. The idea is to allow groups of residents to propose their own activations…block parties, garage bands, neighborhood art, even local improvements…and successful proposals will be funded by CAPS. *Drew will spearhead.*

The first step of this project is some heavy planning, so that CAPS can identify per-grant budget, how proposals will be judged, etc. It is likely that this will be modeled after existing programs such as Arvada's neighborhood grants: https://www.arvadaco.gov/485/Neighborhood-Grant-Programs

Murals

Adding murals to Superior is one of the few things that CAPS gets resident requests for. There are many talented local artists who can use their skills to add beauty and interest to the town. CAPS already has a mural subcommittee who will engage with local artist to create three or more murals in locations around town, resource permitting. *Suz and Liza will lead this task.*

Digital Gallery

In 2024 CAPS will embark on a novel digital art program for Superior, which includes some amazing events and opportunities that can extend beyond our borders in partnership with neighboring communities and arts programs. Early in the year, we will purchase screen hardware that will allow us to host modern digital artwork in our own showcases, as well as partnering with neighboring communities on cohosted curated shows. To our knowledge, Superior will be the first municipality with sponsored museum-quality digital art screens. The Superior-hosted shows will be displayed in the Community Center and/or the new Civic Space, while partner shows (if agreed to) will be hosted in locations across Boulder, Denver and in between. The flexibility that these displays bring to our programming will be a major unlock for diverse art experiences and new audiences.

The digital gallery will allow Superior to host a planned series of four exhibitions (one each quarter), with curators from the field that have already expressed interest to member Chris Nunes. These events may include digital art created specifically for Superior by local or international artists. Chris is also developing a 'proof of residence' digital art collectable program to encourage repeat attendance and to reward Superior residents (and attending neighbors) for their support of public arts.

New tech innovations in AI are also unlocking massive interest and artistic potential. Superior's digital screens will allow Superior to capitalize on this emerging area, hosting an AI art instructional course, and a juried state-wide AI Art Competition with digital art solicited from professional, amateur & children artists.

Member Chris Nunes has extensive experience in the digital art world and is more than capable of making this entire category possible for Superior. *Digital programs led by Chris.*

Ongoing

Several tasks will be ongoing throughout 2024:

- A **Marshall Fire Memorial** Working Group has been formed with members from all of the Advisory Groups. This working group will begin meeting in January to continue our efforts to finalize the design.
- CAPS continues to struggle with **funding and grant-writing**, largely due to our structure as an Advisory Group. We will continue to investigate and suggest funding sources and grants available to us now, while also considering if there is a new structure for Superior's

art program that provides more opportunities, including the external formation of a foundation or shifting of departmental funding.

- CAPS desires to have a beautiful **website** that showcases our collection and other projects that are ongoing. We need a place to distribute information, such as the rules for the Neighborhood Grants. We will work the Communications through 2024 to build this platform.
- **Art acquisition and placement**, a significant part of the budget, will be ongoing through the year. We need to place the three pieces purchased/leased at the end of 2024, decide if we want to continue with the leases (or purchase those pieces), and consider art acquisition opportunities along the ARTery.
- Consider and support Town facility (including but not limited to the Superior Community Center, 'Civic Space' and Downtown Superior) activation and usage, improvements and programing as it relates to the committee's scope of work, mission, projects and programs.

Town of Superior
Advisory Committee for Environmental Sustainability
2024 Work Plan_Final Draft v2

The ACES work plan aims to achieve progress on the Sustainability Action Plan.

Key Focus Areas

- **Beneficial Electrification Implementation**
  - All year: coordinate with Partners In Energy
  - All year: promote residential and commercial energy audits
  - All year: promote PACE commercial electrification studies
  - All year: Help review, refine and promote communications to residents, HOAs, Chamber and other groups
  - Q2 & Q3: Promote Town and regional Electrification Events

- **Waste collection service contract community engagement and scope recommendation**
  - Q1: Build out survey questions and review engagement. Review survey results with staff. Support TASP work to increase organics diversion in community, if grant is awarded.
  - Q2 & Q3: Receive report out on TASP work and options. Finalize waste collection contract scope recommendations. ACEs and staff present findings from community engagement and ACES' scope recommendations to Board.
  - Q4: Support Town Board and staff with community outreach if Board approves any changes in level of service or vendor providing this utility

- **Resilience and Water Conservation**
  - Q1-Q3: Promote Waterwise Workshops and Resource Central programs and report out metrics
  - All year: Work with Town staff and PARC/OSAC on water conservation
  - All year: Collaborate with OSAC on resilience, natural landscapes and ecosystem services
  - All year: Outreach to HOAs on xeriscape and water conservation

- **Identify (Q1, Q2) & Implement (Q3&Q4) Key messages**
  - Residential
  - Commercial
  - Town Staff
  - Town Board

Ongoing Efforts

- **Outreach messaging and events**
  - Q2 Earth Day, Arbor Day, Hard to Recycle Event
  - Q3 4th of July, Resource Central Workshop
  - Q4 Chili Fest, Ecotoberfest, Superior Holiday Event
- Consider and support Town facility (including but not limited to the Superior Community Center, 'Civic Space' and Downtown Superior) activation and usage, improvements and programing as it relates to the committee's scope of work, mission, projects and programs.

ITEM NO. 3e

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: **Coyote Ridge Open Space Master Plan Presentation**

MEETING DATE: **January 22, 2024**

PRESENTED BY: **Leslie Clark, PROS Director**
Stacy Passmore, SuperBloom Innovative Landscape and Design

PRESENTED FOR: **Adoption**

BACKGROUND:
The Town acquired approximately 182 acres of open space from Century Link in 2020. The Century Link property was later re-named to Coyote Ridge Open Space through a recommendation from the Open Space Advisory Committee (OSAC), and was combined with existing un-named Town owned open space on the north-west corner bringing the total acreage to 292 acres. Coyote Ridge Open Space is located in both Boulder and Jefferson Counties and Conservation Easements exist with both entities on this property.

In 2023 the Town engaged SuperBloom Innovative Landscape Architecture and Design firm to create the Coyote Ridge Open Space Master Plan. SuperBloom worked closely with staff and OSAC to conduct two public surveys and multiple in-person public engagement opportunities to gather ideas, suggestions and priorities for management of the largest continuous parcel of designated open space in Superior.

The final draft of the Coyoted Ridge Open Space Master Plan provides an in-depth analysis of the property, resident feedback on needs and preferences for the site, and key recommendations to guide future improvements, programming, and management of Coyote Ridge Open Space.

ATTACHEMENTS
- Coyote Ridge Master Plan

COYOTE RIDGE

OPEN SPACE MASTER PLAN



Town of Superior

December 2023

PROJECT SUMMARY

Coyote Ridge Open Space is a 292-acre natural area located at the southern edge of the Town of Superior along Colorado 128 on the south side, McCaslin Blvd on the west side, and Eldorado Blvd. on the east side. With over 1,000 acres of park and open space and 29.75 miles of trails that connect to neighborhood parks and regional trail networks, Superior provides a small-town environment with a rich history and ideal proximity to regional amenities. Grounded in ecological principles, the Coyote Ridge Open Space Master Plan seeks to connect the vibrant community of approximately 13,000 residents with the rich natural heritage of the region. The Master Plan serves as a testament to the Town's unwavering commitment to cultivating a sustainable and resilient community, and reflects a deep understanding of the significance of preserving the innate beauty that makes Superior an exceptional place to live, work, and thrive. This initiative not only aligns with the community's ethos but also positions Superior as a model for responsible development, where urban living seamlessly coexists with and enhances the local ecological landscape.

TOWN OF SUPERIOR

Parks, Recreation & Open Space Department

Town of Superior Board of Trustees

Open Space Advisory Committee

124 E Coal Creek Dr
Superior, CO 80027
303.499.3675
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PROJECT CONSULTANT TEAM

SUPERBLOOM

Landscape Architecture
Community & Regional Planning

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PINYON ENVIRONMENTAL, INC.

Environmental Consultant

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303.980.5200
https://pinyon-env.net/

Image credits: All images and drawings courtesy of Superbloom, unless otherwise noted.

A COMMUNITY VISION

The Future of Coyote Ridge Open Space

A unified Master Plan for Coyote Ridge offers an extraordinary opportunity to enhance a well-loved landscape and an important ecosystem in the Town of Superior. Building on previous planning work, the Town of Superior undertook a nine-month process to connect with local community members both in person and virtually at public meetings, outdoor walks, and workshops to craft a collective vision for Coyote Ridge.

Feedback, ideas and analysis from this process are compiled in the Master Plan. The goal of the Plan is to preserve the natural landscape of Coyote Ridge by maintaining trails with low impact maintenance practices, minimizing the effects of public access. These efforts aim to conserve and protect the established grasslands, supporting the continuity of diverse native plants and wildlife.

The recommendations provided herein aim to restore and maintain ecosystem health consistent with historic short-grass prairies. The recommendations take into account wildfire planning and defensible space while promoting safe, positive recreation opportunities for both residents and visitors. This plan both identifies short-term and long-term strategies to achieve balance between eocsystem preservation and recreational activity within the local and regional context.

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Coyote Ridge Open Space is an incredible natural area in the Town of Superior defined by steep gullied, mixed-grass prairie, diverse wildlife and pristine views.



View to the West of the Flatirons and mountains beyond in July 2023.



(above) Existing conditions including trails, plant life (native and noxious) and vistas at Coyote Ridge including Canada Thistle, Bindweed, Yellow Coneflower, and Native sunflower species.

INTRODUCTION

About Coyote Ridge Open Space

Coyote Ridge Open Space, a 292-acre natural expanse south of Downtown Superior, was acquired on June 19, 2020, and subsequently re-zoned as Open Space-Natural. The acquisition of the 185-acre property cost $15,000,000, with a strategic focus on preserving the area's beauty in perpetuity. The incorporation of this land underscores a strong commitment to conservation.

In formulating Coyote Ridge Open Space Master Plan, the Town of Superior is dedicated to safeguarding the land and its natural resources, aligning with the values of its residents. This commitment is reflected in the Town's municipal code, which defines the open space and natural uses district with a purpose to maintain the open and undeveloped character of properties within the district.

The project aims to:

- Ease the impact of social trails by improving recreational trails and spaces for year-round and all-season activities.
- Engage the surrounding community in a creative and inclusive design process while establishing ecological and recreational potential for the site.
- Enhance connections with adjacent neighborhoods and improve access to/ from Coyote Ridge Open Space.
- Establish habitat connections that integrate natural areas with trailheads, moments for pause and reflection, interpretive elements, and integrating recreational opportunities with ecosystem restoration.
- Synthesize stakeholder input into an open space master plan and management plan that integrates with the existing context of past and future planning efforts of Coyote Ridge.
- Develop open space management strategies that preserve and enhance ecological value while mitigating wildfire risk.



(right) Context Map of Coyote Ridge Open Space
source: Google Earth

THE STORY OF COYOTE RIDGE OPEN SPACE

Site History

Coyote Ridge Open Space is a 292-acre short grass prairie featuring rolling hills, cacti, and native shrubs located within the Town of Superior. A 30-minute drive northwest of downtown Denver, and a 15-minute drive to downtown Boulder, Superior is home to an extensive open space system. Coyote Ridge boasts approximately 7-miles of social trails, varying in levels of difficulty and trail type, that have developed informally over the years.

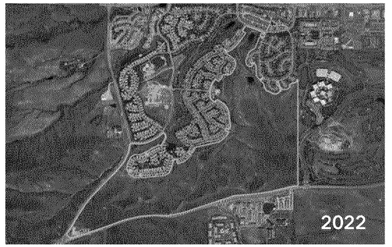
With a 336 foot difference, the topography is one of the most valuable features that sets this open space apart from the surrounding area. Elevations within the open space range from 5485 to 5821. The northwestern border of Coyote Ridge is defined by the Rock Creek neighborhood and McCaslin Boulevard, the southern boundary is marked by Highway 128, also known as West 120th Avenue. To the East is the Interlocken Golf Club. Coyote Ridge Open Space is part of the Western Great Plains Short Grass Prairie that serves as a transitional zone between the Rocky Mountains and the Great Plains. Nationally, nearly half of all the short grass prairies have been lost to development. Therefore, the open space provides an opportunity for ecological preservation, encompassing biodiversity, climate resilience, and human health benefits.

There are 5 parks located within 1 miles of the open space: Pirate Park, Castle Park, Wildflower Park, Cabin Park, and Fire Station Park. Pirate Park acts as a social access point to the northern entry of the open space. The Town of Superior's 45-acre Community Park is a 0.3 miles walk north of Coyote Ridge.

Coyote Ridge Open Space provides Superior residents with close access to multi-use trails, numerous recreational opportunities, and healthy native grassland ecosystems abundant with wildlife.







(above) Historic Aerial Imagery **Source: Google Earth**

(right) Map showing Coyote Ridge Open Space

1997

Water Tank ownership transferred on December 15th, 1997

2003

101.8 acres of the property sold to the Town of Superior December 18th, 2003

2020

Additional land transferred to the Town of Superior on June 15th, 2020

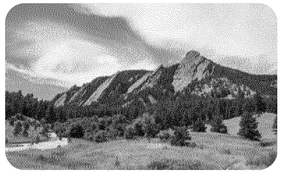


AN EVOLVING IDENTITY

A Brief Geological and Cultural History of the Town of Superior

Situated within the borders of Jefferson County, Boulder County, and the City and County of Broomfield. Coyote Ridge stands as the Town of Superior's most expansive Open Space.

Founded in 1896 and officially incorporated in 1904, the Town's historical identity is rooted in mining, particularly for its high-quality coal. Acknowledging and respecting this enduring history is crucial in determining the future of the open space. The community recognizes the significance of the land and its inhabitants and is actively exploring the adoption of a land acknowledgment recognition. This recognition aims to pay homage to and establish a meaningful relationship with the Cheyenne, Arapaho, Ute, and other Native American nations connected to this region.



Pre-History

Geologic Past

The Town of Superior and Coyote Ridge Open Space lie within the geologically diverse Denver Basin, where rocks often contain valuable resources such as oil, gas, and groundwater, influencing economic activities and land use planning in the region.



1800s

Native American Displacement

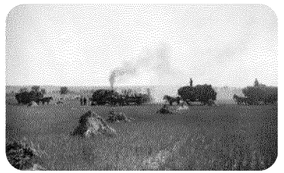
Superior, Colorado, is located on land historically inhabited by the Arapaho and Cheyenne Native American tribes. The area's history is marked by the displacement of these indigenous peoples through the process of westward expansion and the establishment of Euro-American settlements in the 19th century.



1896 Town Designation

Coal Draws Pioneers Westward

The Town of Superior dates back to the late 19th century. Mining was the primary driving factor attracting miners and families to the town.



1945-Late 20th Century

Transitioning from Coal

By the 1940s, demand for coal diminished due to the use of diesel fuel for railroads and natural gas for homes. In 1945, Superior, Colorado's industrial mine closed, leading the town to embrace a new era focused on ranching and farming, which revitalized the town's economy.



1980s-1990s

Superior's Expansion

Numerous communities, such as Rock Creek to the north of the Coyote Ridge Open Space, have flourished in proximity to the Town of Superior. This expansion has been catalyzed by the burgeoning tech industry and residential development in the area, capitalizing on its strategic positioning between the major cities of Boulder and Denver, Colorado.

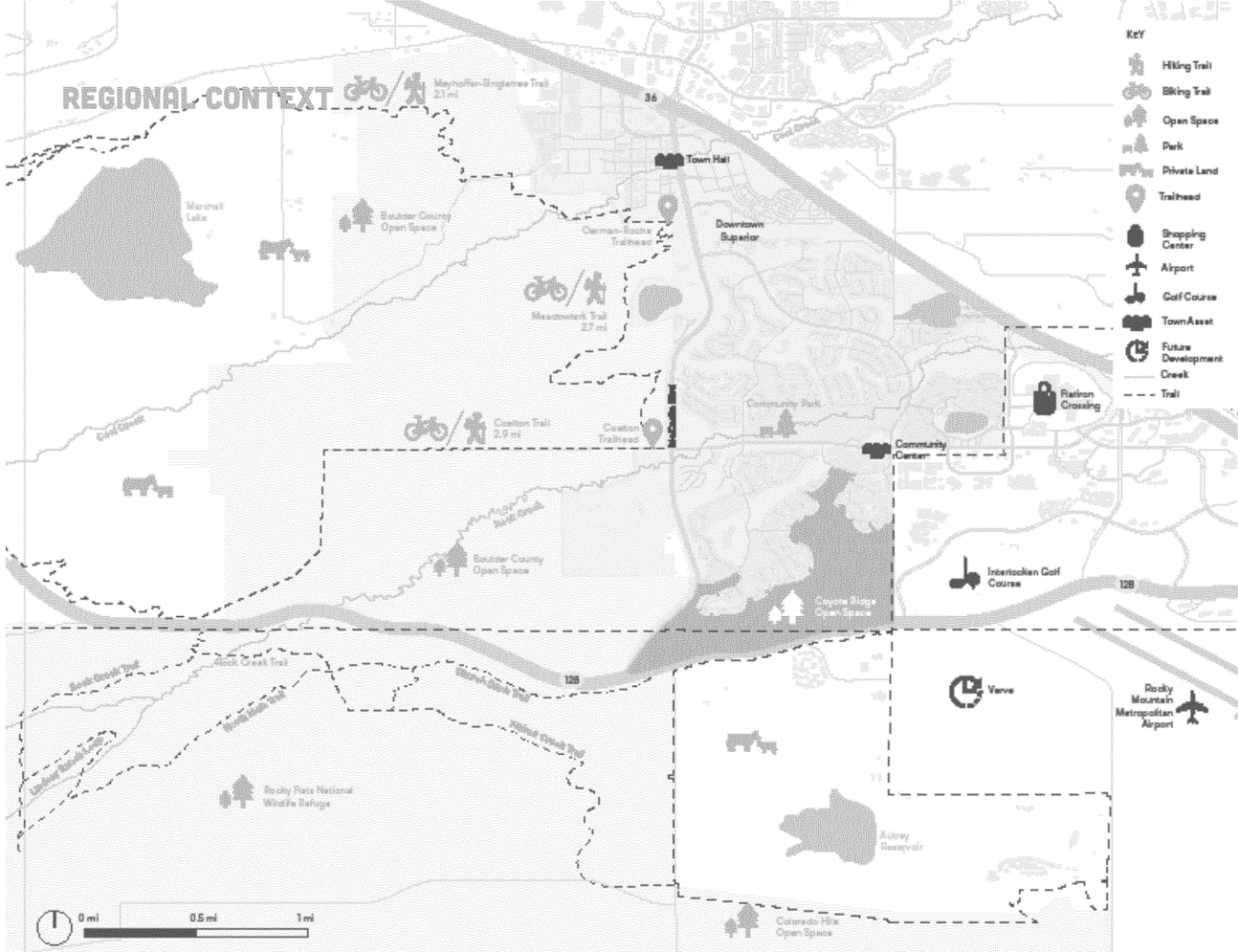


Today

Towards a Resilient Community

Superior has continued to grow and has evolved into a picturesque town blending residential charm with the scenic beauty of Coyote Ridge Open Space. Notably, the town demonstrated remarkable resilience, implementing proactive measures to withstand challenges such as fires, ensuring the well-being of its residents and the preservation of its natural surroundings after the 2013 flood and the 2021 Marshall Fire.

Sources: adobe stock, creative commons, https://digital.denverlibrary.org\, historycolorado.org



A HISTORIC WILDFIRE

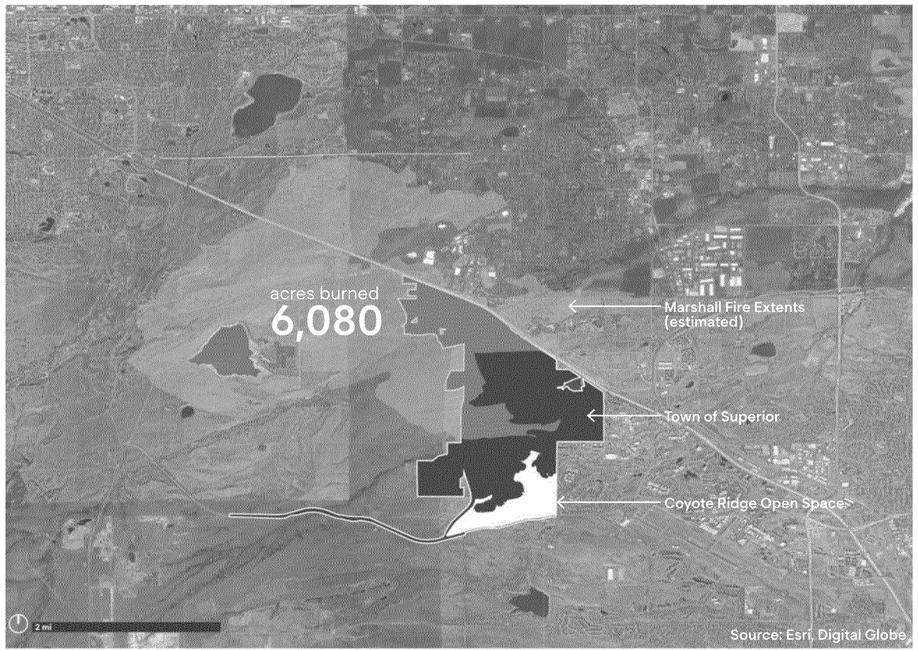
Marshall Fire drives open space master planning efforts.

MARSHALL FIRE
2021 | BOULDER COUNTY

homes lost
1,084

acres burned
6,080

cost
$2 billion



The Marshall Fire stands as the most destructive wildfire in Colorado's history in terms of structural loss, destroying over 1,000 homes and displacing more than 900 people, it consumed over 6,000 acres of land as it swept through multiple suburban communities in Boulder County. Given that Coyote Ridge is situated due south of the fire path, it was crucial to account for the long lasting implications of the fire and incorporate the study of wildfire mitigation. As such, the public engagement portion of this process.

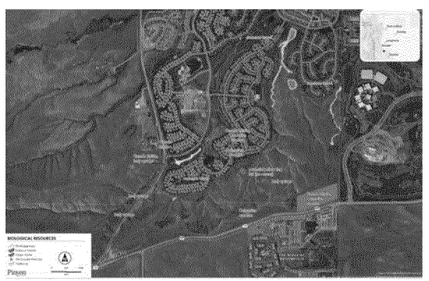
The Marshall Fire changed the approach to open space management in the grassland urban interface (GUI). This Master Plan includes recommended strategies that incorporate scientific, ecological approaches to wildfire mitigation strategies within the open space.

SITE ANALYSIS

Environmental Analysis + Existing Trail System

In effort to better understand the open space, Pinyon Environmental Inc. surveyed existing biological resources including the presence of water sources, noxious weeds, and other notable elements present on the site (see Appendix A for Pinyon's full Biological Resources report).

A variety of trail types exist today at Coyote Ridge, ranging from single track to wide concrete trails. The current trail network has informally developed over the years due to social activities and continued parcel acquisitions. In an effort to formalize a sustainable, unified trail network, an assessment of the trail network and maintenance recommendations can be found on pages 26-33 of this plan.



Pinyon Biological Report



Informal Narrow Trails



Soft Trails



Muddy Areas



Shared use



Gravel Areas



Single track



Undefined Edges



Wide trails



A COMMUNITY DRIVEN MASTER PLAN

In 2023, the Town of Superior conducted a 7 month engagement process that included a range of in-person and virtual events, workshops and surveys to discuss the future of Coyote Ridge Open Space.

Yellow Coneflower (*Ratibida columnifera*) is one of the many wildflowers that proliferate at Coyote Ridge and support native pollinators.
July 2023

01

PROCESS

EXISTING SITE OBSERVATIONS

Project Approach

By combining a thoughtful community engagement process with in-depth research and site analysis, the master plan aims to preserve and celebrate a spectrum of experiences. It is designed to cater to a diverse range of users, aiming to inspire individuals to forge meaningful connections with nature.

A Collective Community Vision: A significant open space parcel recently unified under single ownership and management, a comprehensive plan for Coyote Ridge will provide invaluable community benefit. This process can identify open space-wide principles and overall frameworks while balancing natural, connected and active elements.

A Connected Landscape: To improve the adjacent neighborhood's connectivity, while expanding access to all residents of the Town of Superior, the plan will look at access improvements and trail enhancements.

Considering the rapid growth of trail usage across Colorado, Coyote Ridge trails will be enhanced to accommodate future use with responsible and sustainable management of trails, open space and wildlife habitat.

A Resilient Future: More focused recommendations for the various ecosystems present on the site will restore and enhance both human and environmental aspects of the ecosystem while providing a powerful catalyst for sustainable, interactive collaboration and engagement.

The master plan integrates recreational improvements and opportunities with functional ecosystem restoration. It identifies achieveable solutions to enhance the steppe ecosystem, accommodating wildlife migration patterns and creating moments where visitors can respectfully observe nature from a distance.



View over Coyote Ridge towards the Flatirons, May 2023

STUDY TIMELINE

The community of Superior shares their thoughts and ideas.

The plan's development was led by landscape architecture and planning studio Superbloom in partnership with Pinyon Environmental, OSAC (Open Space Advisory Committee), and Town of Superior staff. The team met bi-weekly throughout the nine month process to research and collect community, and consultant feedback and consolidate the findings into this master plan document.

With a mission to actively involve the community, the planning team engaged town staff and community members early on to gather input on what they wanted (or didn't want) at Coyote Ridge. Community engagement was a primary goal of this plan. The team intentionally developed multiple engagement strategies, both virtual and in person, to maximize the community engagement in the process.

The virtual methods of community engagement included utilizing ShapeSuperior, a Town of Superior website, where the public could complete surveys relevant to their community. Through partnership with EngagementHQ, the surveys utilized multiple choice, ranking, and open ended questions the design team developed with the Town. The initial survey questions examined the topics of the master plan including trails, wayfinding, amenities, ecology, and wildfire management, in order to collect preliminary community data. This platform also featured an interactive map where respondents could leave pins to provide georeferenced comments. The consultant team utilized a color-coding system to determine likes/dislikes and general user feedback.

In an effort to extend engagement opportunities even further, the team provided printed visuals and forms at several in-person events. The timeline on the following page describes the range of engagement opportunities throughout the planning process.

By the numbers:

550+
online survey results collected

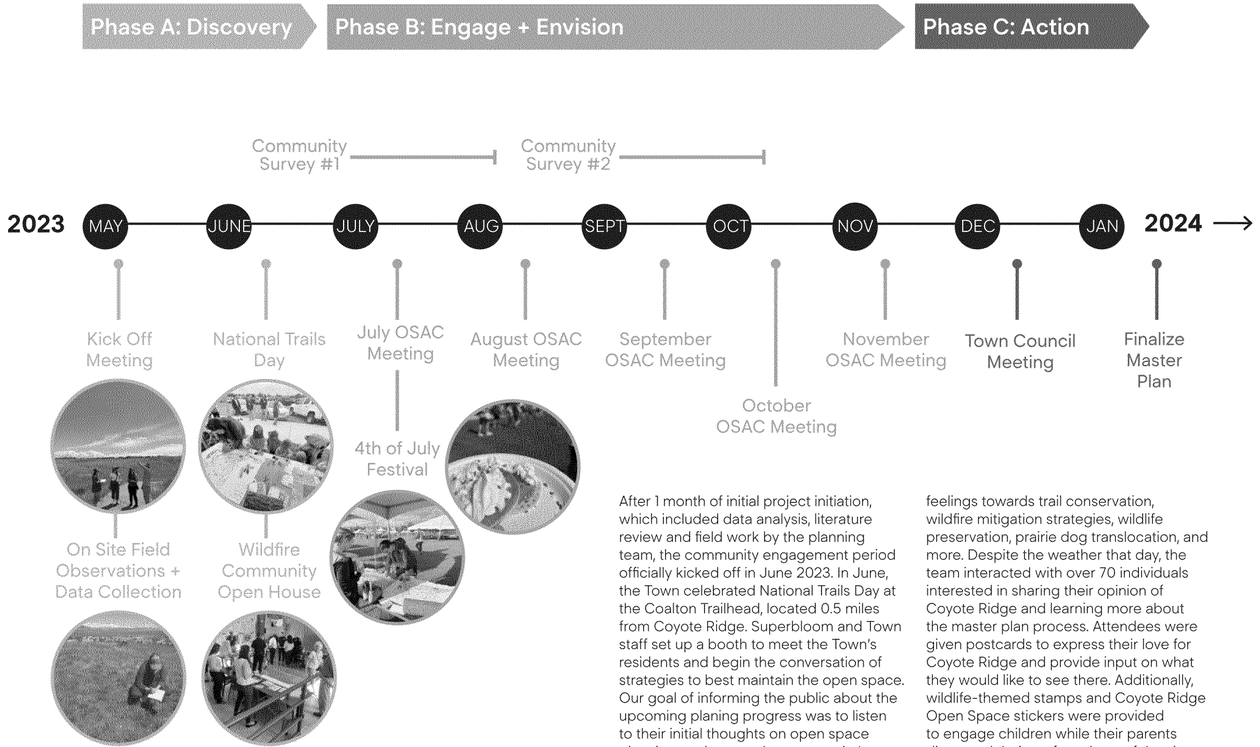
5
virtual town meetings attended

3
public engagement opportunities


Fieldwork and Environmental Studies


Community In Person Events and Online Surveys


Site Analysis for Accessibility and Trail Maintenance



After 1 month of initial project initiation, which included data analysis, literature review and field work by the planning team, the community engagement period officially kicked off in June 2023. In June, the Town celebrated National Trails Day at the Coalton Trailhead, located 0.5 miles from Coyote Ridge. Superbloom and Town staff set up a booth to meet the Town's residents and begin the conversation of strategies to best maintain the open space. Our goal of informing the public about the upcoming planing progress was to listen to their initial thoughts on open space planning, and gauge the community's feelings towards trail conservation, wildfire mitigation strategies, wildlife preservation, prairie dog translocation, and more. Despite the weather that day, the team interacted with over 70 individuals interested in sharing their opinion of Coyote Ridge and learning more about the master plan process. Attendees were given postcards to express their love for Coyote Ridge and provide input on what they would like to see there. Additionally, wildlife-themed stamps and Coyote Ridge Open Space stickers were provided to engage children while their parents discussed their preferred use of the site.

COMMUNITY FEEDBACK

An Engaged & Involved Community

Engagement activities included:

4 OPEN SPACE COMMITTEE MEETINGS

July - Introducing the project and process to OSAC
August - Reviewing consolidated community feedback and Pinyon's recommendations
September - Reviewing second round of survey questions and master plan topics
November - Reviewing draft master plan recommendations

3 PUBLIC ENGAGEMENT EVENTS

National Trails Day - Informing the public that the master plan process was beginning and taking the Town's temperature on their view of open spaces
Wildfire Community Open House - Intaking information about current and adjacent wildfire mitigation strategies and partnerships
4th of July Pancake Festival & Independence Day Celebration - Notifying community members of the online survey

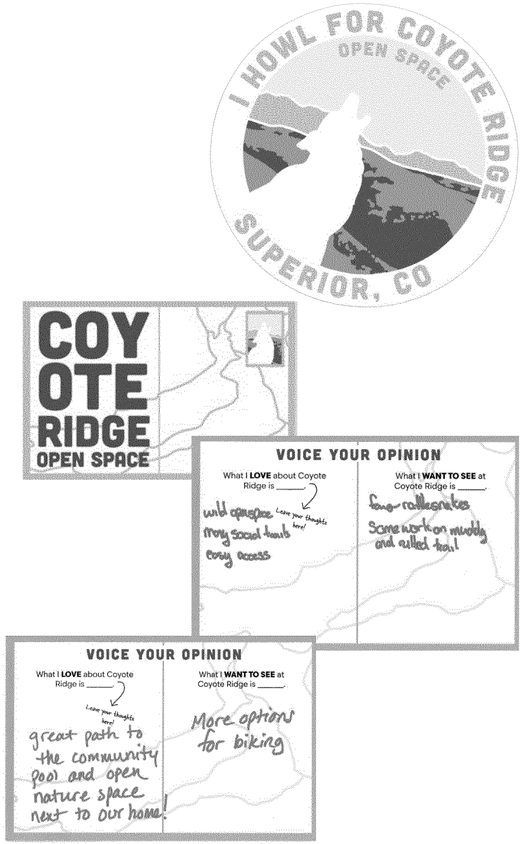
2 ONLINE SURVEYS

Through Shape Superior engagement platform
1st round included 293 responses
2nd round included 277 responses
20 yard signs placed on site with links to the survey posted around Superior

1 TOWN COUNCIL MEETING

Reviewing and approving the final master plan recommendations

Superior residents consistently expressed a high regard for Coyote Ridge Open Space and a strong desire to influence its future direction. The community's valuable feedback significantly contributed to informing the master plan.

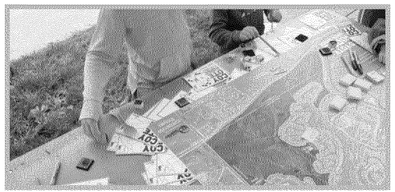


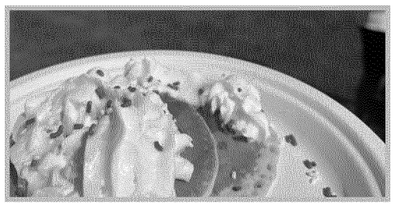
Public Events and Fieldwork:

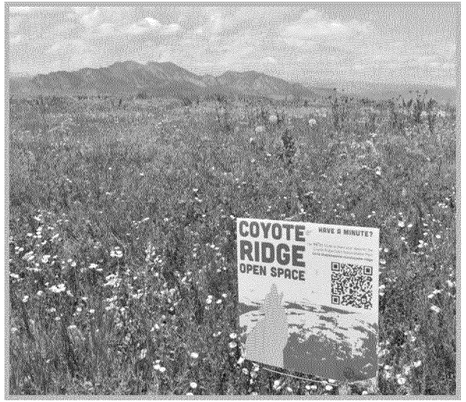

4th of July Tabling Event


Wildfire Community Open House - June 10th, 2023

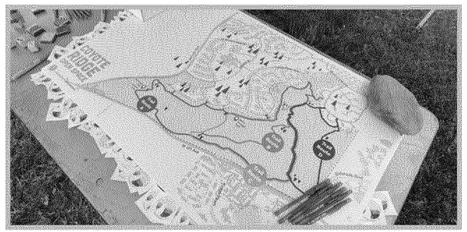

National Trails Day Tabling Event - June 3rd, 2023


National Trails Day Tabling Event - June 3rd, 2023


Pancake Breakfast with the Town of Superior



Sign posting to promote the first round of Community Survey


4th of July Tabling Event

COMMUNITY SURVEY #1

The Town of Superior's website hosted a community survey from July 1st to July 31st, playing a pivotal role in shaping this master plan for Coyote Ridge Open Space. This survey sought input and preferences from residents to inform the future use and enhancement of Coyote Ridge Open Space. While general survey results are conveniently outlined in the document's appendix, please note that open-ended responses are not included.

A total of **293** people participated in the survey.



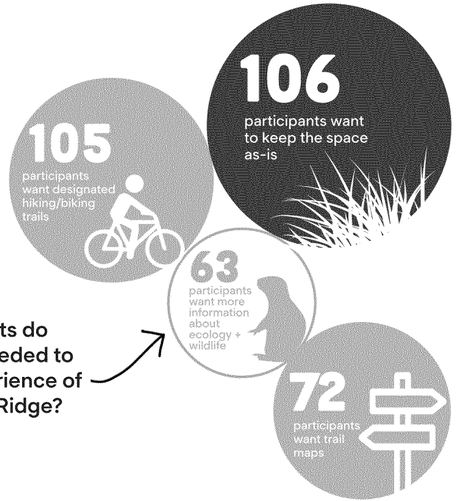
of participants were from Superior of areas adjacent to Coyote Ridge.



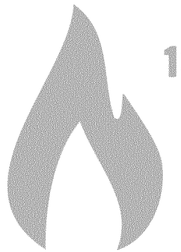
What ecological improvements are most important to you?

- trail management — 130 mentions
- wildfire management — 107 mentions
- biodiversity — 86 mentions
- pollinator habitat enhancement — 84 mentions
- grassland restoration — 82 mentions

What improvements do you believe are needed to enhance the experience of visitors at Coyote Ridge?



Do you support the implementation of wildfire mitigation measures in Coyote Ridge Open Space?



100 participants are **in favor** of wildfire mitigation measures

13 participants are in **not in favor** of wildfire mitigation measures

7 participants are **unsure** of wildfire mitigation measures

Public Survey Comments:

"I visit Coyote Ridge to mountain bike, trail run, hike solo with my dog, and hike with my family."

"I would love to see signage for designated trails and restoration of social trails/overall habitat restoration."

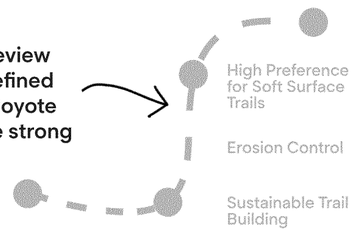
"Completely on board for fire mitigation measures. Especially in a warming planet that will lead to increasingly more

COMMUNITY SURVEY #2

Following the initial community feedback, a second survey was issued from September 13th to October 13th. This survey aimed to gauge residents' opinions on specific design decisions, and the document incorporates many of these results alongside thecorresponding design. The full survey and results are available in the appendix.

A total of **277** people participated in the survey.

When asked to review a more clearly defined trail system for Coyote Ridge there were strong preferences for:

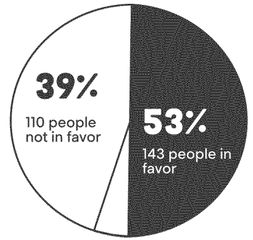


When asked if participants had experienced user conflict at Coyote Ridge...



83% of partcipants report they rarely experience user conflict

What are your thoughts on including an overlook area, trailhead signage, and a small parking lot with a maximum of 15 spots?



8% of participants have mixed feelings

What additional topics would you like added to the master planning process/discussion?



" I'm excited about wildflower, native plant and bird ID."

"Off leash dogs and high speed e-bikes are a problem."

"Leave the open space the way it is, wild and natural."

02

OVERALL LANDSCAPE STRATEGIES & GOALS

MASTER PLAN CATEGORIES

The Master Plan recommendations are organized into five (5) primary categories.

An **implementation system** for the overall landscape of Coyote Ridge Open Space including Trails, Wayfinding, Amenities, Ecology, and Wildfire Mitigation.

GOAL 1

Improve & maintain the trail system of the Open Space



1 **Trails**

GOAL 2

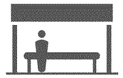
Ensure safe navigation and emphasize open space rules + regulations



2 Wayfinding

GOAL 3

Provide amenity features for pen Space users



3 **Amenities**

GOAL 4

Support wildlife through supportive ecosystem services



4 Ecology

GOAL 5

Mitigate for grassland wildfires



5 Wildfire

TRAILS

PRESERVE EXISTING TRAIL NETWORK

Maintain existing soft surface multi-use trail network.

Today, Coyote Ridge Open Space is minimally developed with nearly 7 miles of trails, including some pre-existing concrete paths and eroded social paths with steep slopes. The open space serves as a place for multi-use recreation, displaying a range of challenging and leisurely routes. The following trail typologies describe the existing trail types at the open space. To improve these trail systems, the community engagement process revealed a strong desire for additional wayfinding and informational signage that describes trail difficulty.

"Please NO more concrete! Single-track or wider trail soft surface."

-comment from public survey

When asked about trail maintenance in the community survey, of the 149 responses, 60 specifically noted a preference for soft-surface trails or no additional concrete added to the open space.



Existing Multi-Use Single Track

Material = Compacted Soil
Supports = Biking, Running, Hiking
Width = 12"-24"



Existing Multi-Use Soft Surface

Material = Crusher Fines
Supports = ADA, Walking, Hiking, Running, Biking
Width = 3'-12'



Existing Multi-Use Concrete

Material = Concrete
Supports = ADA, Walking, Hiking, Running, Biking
Width = 10'

There are three trail types today at Coyote Ridge. The map to the right shows where each trail types is currently located within the existing trail network.



IMPROVE & ENHANCE TRAILS

Sustainable trail design will minimize maintenance, reduce erosion and help preserve native ecosystems.

Over time, informal or "social" trails have developed within Coyote Ridge's trail network. Conserving the trails for future generations to enjoy is a priority for the Town. Ensuring the trails remain intact is a challenge when many of these informal trails are unsafe, contribute to erosion, are redundant with other paths, and promote the spread of invasive plant species.

RECOMMENDATIONS

The following recommendations aim to preserve the existing trail network where safe and well-maintained and improve all other areas:

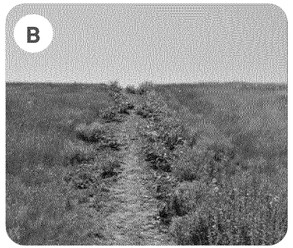
1. Conduct an assessment of trails to identify areas with steep grades, with the aim of improving trail routes and implementing effective erosion control measures.
2. Prioritize the continued maintenance and revegetation of steep and eroded trails to enhance ecological health and improve overall safety.
3. Revegetate the exterior of trails to promote the growth of low-growing, pollinator-friendly species, contributing to both recreation and habitat enhancement.
4. Incorporate best practices of trail vegetation into Town practice, including the use of restoration signage, erosion matting, regrading, and the addition of soils or materials to facilitate regrading. For specific guidance on successfully closing social trails, refer to pages 31-39 of Boulder County's *Ecological Best Management Practices for Trails.*
   See: https://bouldercolorado.gov/media/2496/download?inline

82%
of participants are **in favor** of revegetating trails where needed.

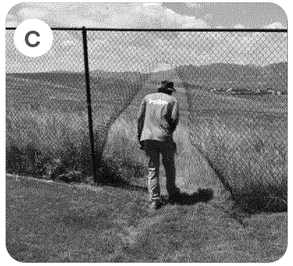
Examples of Potential Trail Revegetation Areas:



Muddy social trail



Social trail near Pirate park



Hole in fence with social trail, near Golf Course



ESTABLISH TRAIL MAINTENANCE GUIDELINES

Improving trail quality through a regular maintenance program

Prioritize reconfiguration of existing trails to maximize recreational opportunities and minimize environmental disturbance.

RECOMMENDATIONS

Overall Trail Enhancement Plan & Management Approach:

Prior to any major trail work, including construction, rerouting, or trail closure, this master plan recommends that the Town hire a trails planning, design and construction contractor to develop and implement an overall Trails Plan, that provides quality recreational access and opportunities in a manner that is compatible with the conservation values of the Town, and incorporates the guidelines below. This work shall be conducted through site walks of the entire property.

- Identify and implement sustainable trail maintenance and minor re-routes as needed to address immediate and long term needs.
- Implement major rerouting and permanent closures/replacement of trails over the long term as approved by the Town.

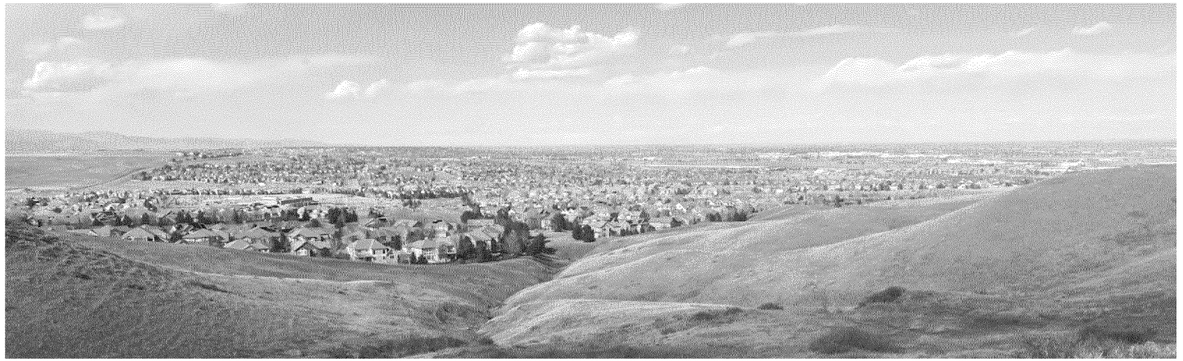
Incorporate the following **environmental guidelines** into future trail improvements and maintenance practices:

- Minimize public use (summer or winter) in areas with high environmental sensitivity, and carefully consider potential short- and long-term impacts to specific ecological values and functions
- Focus public use in existing disturbed areas with lower environmental sensitivity
- Minimize disturbance and habitat fragmentation to known wildlife populations
- Retain diverse, undisturbed habitat types to provide a refuge for a variety of species
- Provide reasonable and equitable trail access to desired destinations (e.g., viewpoints and riparian areas) to avoid the creation of non-designated trails to those areas
- Use thoughtful and creative planning to provide quality trail experiences while minimizing redundant or unnecessary trails

Incorporate the following **trail design and management guidelines** into future trail improvements and maintenance practices:

- Construct new trails using modern trail-building techniques to reduce long-term maintenance and conflict
- Establish, maintain, or improve multi-use connections to other nearby trails
- Minimize addition of impervious surfaces that could contribute to erosion.
- Consider various types of trail uses, experiences, and destinations to maximize user enjoyment and reduce conflicts
- Incorporate noxious weed monitoring through required contractor reports and weed control when performing trail work

Ensure that all trails improvements are in alignment with the best management practices for restoration within trail management.



View from Coyote Ridge's North Ridge looking toward the residential edge.

Maintenance to be performed on a continuous, scheduled basis:

1. Trail user safety
Safety is central to all maintenance operations, and is the single most important trail maintenance concern. Items for consideration include scheduling and documentation of inspections, the condition trail surfaces, proper and adequate signage, and removal of debris.

2. Trail inspections
Trail inspections are integral to all trail maintenance operations. Inspections will occur on a regularly scheduled basis, the frequency of which will depend on the amount of trail use, location, age, and the type of construction. All trail inspections are to be documented.

3. Trash removal
Trash removal from trail corridors is important from both a safety and an aesthetic viewpoint. It should include removing ground debris and emptying trash containers. Trash removal will take place on a regularly scheduled basis, the frequency of which will depend on trail use and location.

4. Vegetation management for trail use and wildfire mitigation
Tree and shrub pruning will be performed for the safety of trail users. Pruning will be performed to established specifications on a scheduled and as needed basis, the frequency of which will be fairly low. Additionally, trail maintenance personnel will mow vegetation along primary trail corridors to reduce burn fuel.

5. Scheduling maintenance tasks
Inspections, maintenance, and repair of trail-related concerns will be regularly scheduled. Inspection and repair priorities should be dictated by trail use, location, and design. Scheduling maintenance tasks is a key item towards the goal of consistently clean and safe trails.

Frequency of Trail Maintenance Practices

Trail Inspections	Trail Repairs	Signage Inspections	Removal of Ground Debris	Trash Removal	Vegetation Pruning	Vegetation Mowing
Biannually	As Needed	Quarterly	Monthly	Monthly	As Needed	Biannually

IMPROVE REGIONAL + NEIGHBORHOOD ACCESS

Expand access to make the open space more accessible to local residents and the regional community

RECOMMENDATIONS

Several opportunities for improving access to the open space are detailed on the following pages. These access points are organized into three categories for improvement: vehicular + pedestrian, local pedestrian, and Rock Creek neighborhood. The map to the right identifies existing and proposed locations for improvements. The South Pool acts as Coyote Ridge's main existing access point, with Pirate Park and North Pond as secondary existing access locations. There are 11 neighborhood access points along the Rock Creek edge. Trailhead wayfinding is proposed at each vehicular + pedestrian and local pedestrian access point, and directional wayfinding is proposed at each neighborhood access point.

VEHICULAR + PEDESTRIAN

EXISTING

- **South Pool :** 44 parking spots with 2 handicap spots

PROPOSED

- **CDOT Parking Study :** Approx. 15 spots at the existing CDOT storage facility

LOCAL PEDESTRIAN

EXISTING

- **Pirate Park :** Improve existing access into the site
- **North Pond :** Existing access with concrete trails

PROPOSED

- **Eldorado Boulevard :** Connecting the golf course and future developments to the site with safer access
- **Ridge Parkway :** Connecting the existing neighborhood to the site with safe access

ROCK CREEK NEIGHBORHOOD

EXISTING

- **Neighborhood :** 11 smaller existing entrances located along the northern edge of the open space.



South Pool Access Illustrative Rendering



Ridge Parkway Access Illustrative Rendering

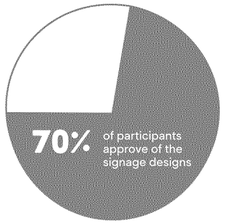


Existing Neighborhood Access Point



WAYFINDING

Provide a system of wayfinding to improve safety and orientation

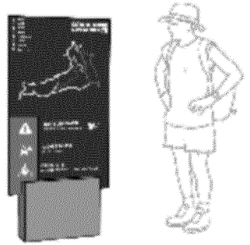


Based on the findings from the community engagement process, it is imperative to address the community's need for increased wayfinding and informational signage. Clear signage is essential to accurately communicate the level of challenge for the trails, whether one is walking, hiking, or biking.

RECOMMENDATIONS

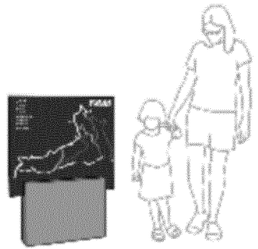
Ideal wayfiding solutions provide a clear hierarchy of information that is expressed also through physical scale. The proposed system is divided into 3 levels: primary, secondary and directional/educational. The map at right identifies ideal locations to install larger signage at primary trailheads that includes maps, trail information and open space rules and regulations. Medium-sized signage should be located at secondary entry points with similar but condensed information as primary signage. Finally, small directional and educational signs shall be located at designated areas requiring a small amount of more specific information at a particular location or intersection. Additional recommendations for regulatory and educational signage is provided on the following pages.

1 Primary Signage



Trailhead signage with maps, trail information, and rules + regulations

2 Secondary Signage



Entry signage including maps, rules + regulations, trail information, or educational information

Directional + Educational Signage



Directional

General trail information including difficulty, distance, trail name, and emergency response reference points

Educational

Educational information on topics relevant to the open space and immediate placement area



CREATE EDUCATIONAL SIGNAGE

Educational signage can educate visitors about the unique ecoogy and history

RECOMMENDATIONS

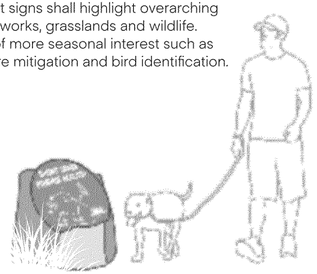
Educational signage was the 4th most important improvement noted by respondents to the community survey. This master plan recommends the installation of both permanent and rotational signage to engage and educate residents who regularly visit the open space. Permanent signs shall highlight overarching ecological themes including: riparian networks, grasslands and wildlife. Rotational signage should depict items of more seasonal interest such as wildflower and grass identification, wildfire mitigation and bird identification.

Permanent Educational Signage Locations:

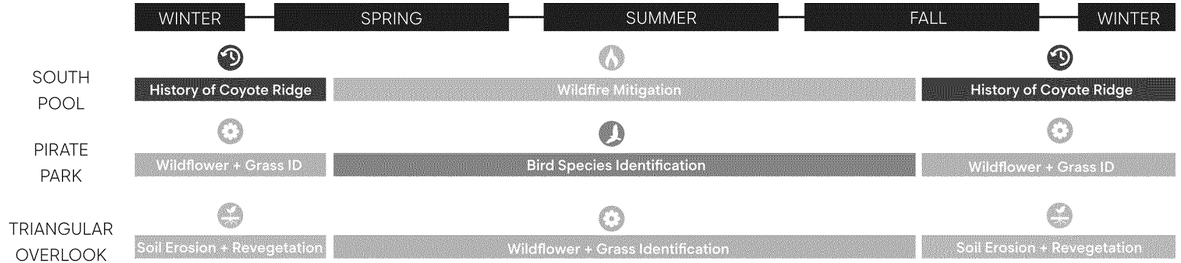
- **Riparian Ecology** - North Pond
- **Grasslands versus Turf Grass Ecology** - South Pool
- **Wildlife Interaction Protocol** - Pirate Park, South Pool, & Proposed Parking Study Area

Rotational Educational Signage Locations:

- **Wildflower + Grass Identification** - Pirate Park & Triangular Overlook
- **Wildfire Mitigation** - South Pool
- **Bird Species Identification** - Pirate Park & Triangular Overlook
- **History of Coyote Ridge** - South Pool
- **Soil Erosion + Revegetation** - Triangular Overlook



Education Signage Example





INSTALL REGULATORY SIGNAGE

Informational and regulatory signage can improve safety at Coyote Ridge

RECOMMENDATIONS

Regulatory signage at Coyote Ridge Open Space should inform visitors about park rules and safety guidelines. This serves as a crucial reference point for ensuring the responsible and enjoyable use of the open space. Existing regulatory signage is currently inconsistent, and the adoption of clear and predictable messaging aligns with major guiding principles in successful wayfinding design. We recommend implementing wayfinding and signage design guidelines to ensure a consistent experience in all open space areas in the Town of Superior. Utilize signage as an active tool to gain compliance on issues such as off-leash dog presence.

Examples of Existing Signage:



Existing Rattlesnake Warning Signage



Existing Private Property Signage



Existing Coyote Warning Signage

Open Space Major Concerns:


Coyote Activity


Rattlesnakes


Off Leash Dogs


Pet Cleanup

Current Regulatory Listing Rules:

- All pets must be on a leash and waste must be picked up
- Respect wildlife and remain at a respectable distance
- No firearms
- No alcoholic beverages
- No unauthorized motor or electric vehicles
- No open fires and/or camping
- Please stay on trails to prevent erosion
- No cross-cutting of trails
- Be courteous and yield to fellow trail users
- Notify the Open Space Ranger of any unusual plant or animal sightings at request the open space ranger at (303) 499-3675
- Learn to live with wildlife. Bears, mountain lions, snakes, foxes, and coyotes often visit our open space areas. A better understanding of these animals and their habitat will help us to coexist.

The Town of Superior is working on updated e-bike and e-scooter regulations

PROPOSED SIGNAGE SCHEDULE

	South Pool	Hwy 128 (CDOT Parking Study Area)	Eldorado Boulevard	Ridge Parkway	Rock Creek Circle	Neighborhood Access Points	Trail Markers
Trailhead Type							
Primary	X	X					
Secondary			X	X	X		
Minor						X	
Entry Signs							
Primary	X	X					
Secondary			X	X	X		
Directional/Educational						X	X
Regulations							
Listing	X	X					
Basic			X	X	X	X	
Maps							
Full	X	X	X	X	X		
Simple Trails with Parking						X	X
Trash Receptacles							
Wildlife Activity Notice							
Coyotes + Rattlesnakes	X	X	X	X	X	X	
Wildlife Observation QR Code	X	X					
Pet Pickup Station	X	X	X	X	X	X	
Emergency Label	X	X	X	X	X	X	X

AMENITIES

Limited Public Amenity Improvements

RECOMMENDATIONS

To align with the Town's open space goals to preserve natural habitats, amenities should not be placed on currently undeveloped land where possible avoid placement of new amenities. In order to provide equitable access to views and ecological points of interest, a few targeted amenities and places of rest should be provided for people of all abilities. The adjacent map shows several locations where seating could be added that are on the edges of the open space, in order to minimize installation impact or obstruct the experience of the open space.

Core Projects:

Shade Structures:

1. Shade shelter at Pirate Park

Natural Benches:

1. Bench at CDOT Parking Study Area
2. Bench at future connection to Coalton Trail Head
3. Bench at Overlook along ADA Accessible Trail
4. Bench at Interpretive Overlook

From the second community survey:

70% participants are **in favor** of the proposed seating locations

Seating + Shade Structure Inspiration:



Example Natural Stone Seating

Source: Terremoto.la



Example Shade Structure at Coalton Trailhead in Superior, Co

Source: Google Maps

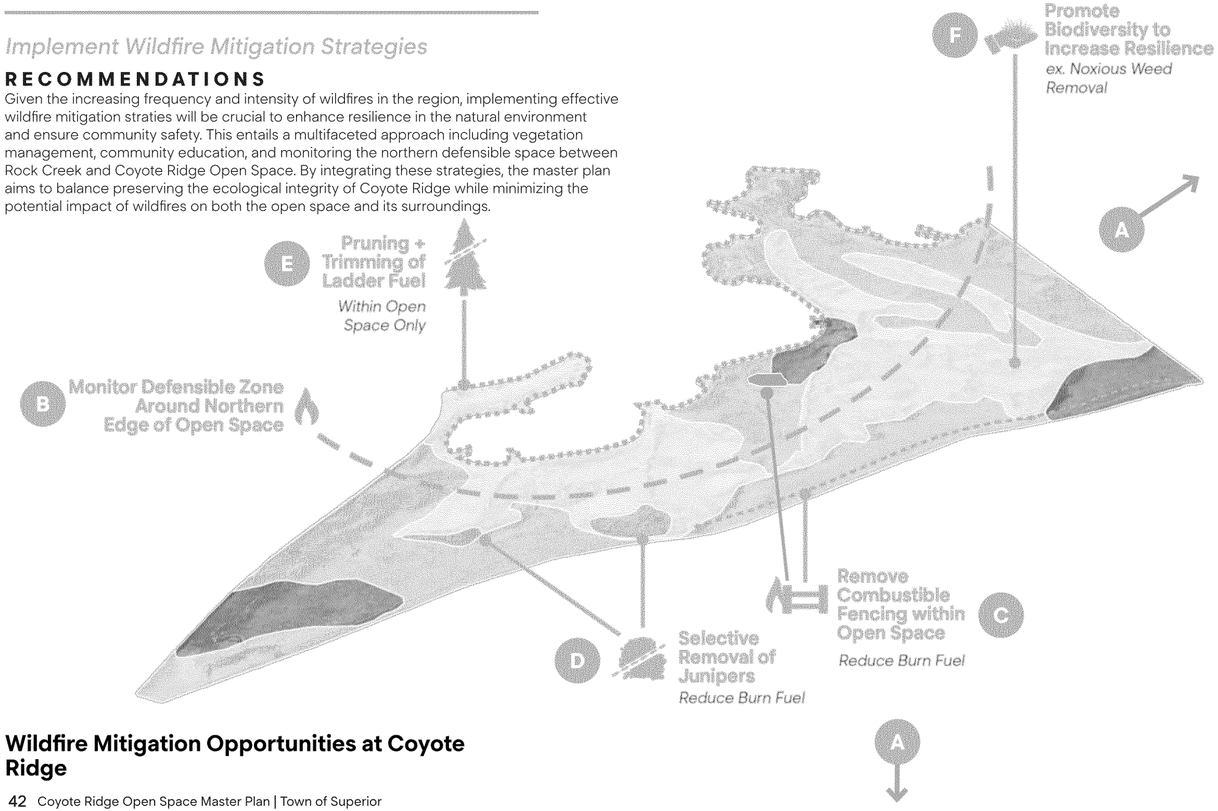


WILDFIRE

Implement Wildfire Mitigation Strategies

RECOMMENDATIONS

Given the increasing frequency and intensity of wildfires in the region, implementing effective wildfire mitigation straties will be crucial to enhance resilience in the natural environment and ensure community safety. This entails a multifaceted approach including vegetation management, community education, and monitoring the northern defensible space between Rock Creek and Coyote Ridge Open Space. By integrating these strategies, the master plan aims to balance preserving the ecological integrity of Coyote Ridge while minimizing the potential impact of wildfires on both the open space and its surroundings.



Wildfire Mitigation Opportunities at Coyote Ridge

A The Town will integrate **wildfire mitigation recommendations** outlined in the Community Wildfire Protection Plan for open space areas including Coyote Ridge.

B Create and monitor **defensible zones** within Coyote Ridge to protect the adjacent residential areas from the impact of any future wildfire events.

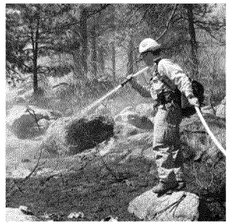
C Remove **combustible fences** within the open space to reduce burn fuel from the area.

D Selectively remove **shrub patches** within the open space to reduce burn fuel from the area.

E Trim **ladder fuel** on non-private land within the open space to protect the adjacent residential community.

F Use natural methods like **hand pulling of weeds** to effectively mitigate wildfire risks by reducing fuel loads.

Monitoring Defensible Zones



- Reduce fire fuel + rapid brush growth
- Create fire barriers
- Recycle organic matter
- Promote healthy vegetation

Noxious Weed Removal + Native Seeding



- Reduce fire fuel + rapid brush growth
- Create fire barriers
- Recycle organic matter
- Promote healthy vegetation

DEFENSIBLE SPACE PRACTICES

Wildfire Mitigation Strategies

RECOMMENDATIONS

The Town of Superior and Coyote Ridge Open Space's wildfire hazard assessment from the 2023 Mountain View FDP CWPP Plan is categorized as medium; however, certain areas of the open space are categorized as high risk and present a higher wildfire risk. The plan proposes low-intensity prescribed burning on the western side of McCaslin Blvd. which would help lower the risk of wildfire within the community (this practice is not occurring on Town owned property).

In addition to this effort, Coyote Ridge can play an integral role in supporting wildfire mitigation in Superior by following the 2023 Mountain View FPD Community Wildfire Protection Plan's three main goals to mitigate wildfires effectively. This plan recommends that the Town adopt the CWPP goals and integrate the following maintenance strategies to reduce wildfire risk within the open space.

Below Image Source: National Fire Protection Association [NFPA] 2022



2023 Mountain View FDP CWPP Plan Goals:

TARGET #1

Restore and Maintain Landscapes

Vegetation Management

- Tree and shrub management within 30 feet of structures following FEMA Defensible Space guidelines (*https://www.fema.gov/sites/default/files/documents/fema_marshall-fire-mat-homeowners-guide-defensible-space.pdf*)
- Maintaining the existing bio-diverse grasses at Coyote Ridge
- Treatment of Noxious Weeds
- Native Species Seeding
- Keep grasses and wildflowers within the residential zone a maximum of 8 inches in height

Hazardous Fuels Reduction

- Maintain a distance of at least 10' between the tops of trees
- Regularly assess the need to remove dead trees and shrubs
- Remove flammable elements

TARGET #2

Fire Adapted Communities

Maintenance within Adjacent Neighborhoods

- Promote vegetation maintenance along the residential edges of Coyote Ridge

TARGET #3

Safe & Effective Wildfire Response

Educating the Public

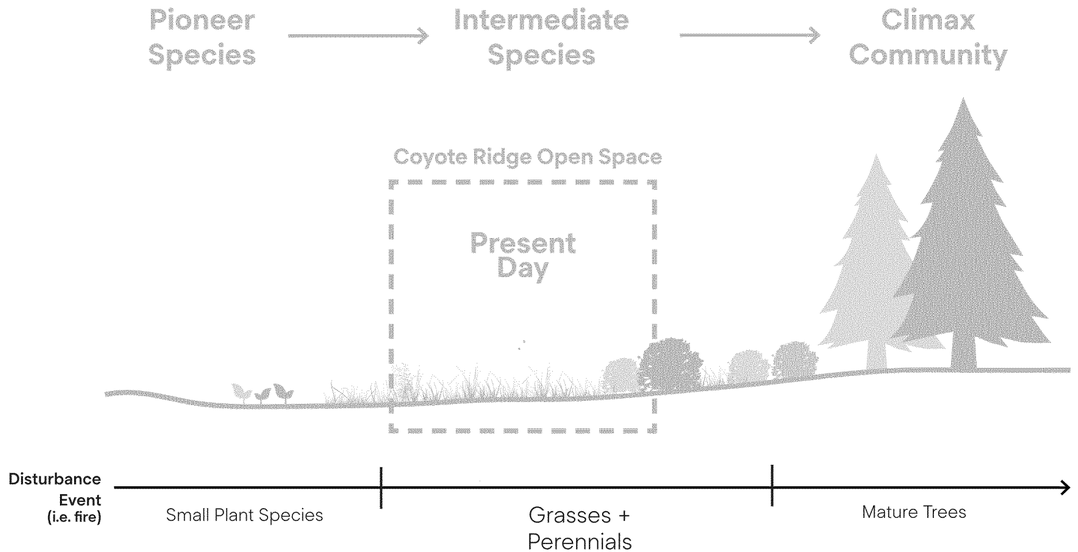
- Volunteer opportunities for invasive species removal and hazardous fuel removal
- Educational Programs at Coyote Ridge Open Space
- Signage describing wildfire ecology and fire-adapted community strategy

VEGETATION MANAGEMENT

Managing Plants for Fire Safety

With the Town of Superior's management goal of maintaining the existing grassland ecosystem and educating the community, vegetation mitigation strategies implemented at the open space will not only improve the open space's defensibility from future wildfire events, but also provide opportunities to educate the public. Coyote Ridge is currently in the intermediate species stage of ecological succession.

The trimming of larger shrubs and trees will maintain and enhance the existing grassland community. Without the management of these species, the property will continue to succeed into a climax community, more likely to spread larger, hotter fires.



Typical section showing ecological succession

ECOLOGY

Establish Ecological Enhancement Strategies

RECOMMENDATIONS

As an integral part of the South Platte River watershed system, Coyote Ridge Open Space offers access to a rich ecology of shortgrass prairie flora and fauna. Preservation and enhancement of the established wildlife habitat and grassland is a priority. In 2023, Pinyon Environmental performed extensive site analysis and compiled their findings in two reports referenced in the Appendix. The study area is comprised of a diverse plant community, mostly consisting of shortgrass prairie vegetation; however, some trees and shrubs were located in patches within the property. Upland vegetation consists of a variety of cool and warm season grasses such as blue grama (Bouteloua gracilis), smooth brome (Bromus inermis), and western wheatgrass (Pascopyrum smithii). There are also many wildflowers including prairie spiderwort (Tradescantia occidentalis), desert madwort (Alyssum desertorum), desert parsley (Lomatium bicolor), scarlet globemallow (Sphaeralcea coccinea), sand lily (Leucocrinum montanum), and milkvetch species (Astragalus sp.) Lastly, there are a variety of cactus species including prickly pear (Opuntia spp.), Simpson's hedgehog cactus (Pediocactus simpsonii), and nylon hedgehog cactus (Echinocerus viridiflorus). Rattlesnake (Crotalus viridis) habitat occurs in Coyote Ridge, and the Town of Superior has reported sightings by members of the public. Rattlesnakes primarily occur in a wide variety of upland areas from prairies to wooded mountains (NatureServe, 2023). They hibernate in winter, sometimes congregating in hibernation dens. Rattlesnakes are active during the day throughout the months of April through October. In areas where high densities of rattlesnakes are known to occur, Pinyon suggests avoiding placing trails. Where that is not feasible, educational signage and signs instructing trail users to stay on the trail and leash dogs are recommended.

The study area provides habitat for a wide variety of migratory birds, such as songbirds and raptors. The MBTA protects birds and their active nests (except for rock doves [Columbia livia], European starlings [Sturnus vulgaris], and some other non-native birds). In Colorado, most nesting and rearing activities occur between April 1 and August 31; however, raptors may nest as early as December. These timeframes are guidelines and nesting birds are protected under the MBTA year-round.

Comments from the Public:

"Definitely in favor of reducing the fuel load due to non-native forbs and grasses!"

"If you are going to remove shrubs/trees, I would prefer that you replace them with native shrubs and/or trees."

"Even though there are tons of weeds, it still has an amazing collection of native plants and the views are truly soul-stirring."

A Selective removal of fences within the open space for improved wildlife corridor connectivity.

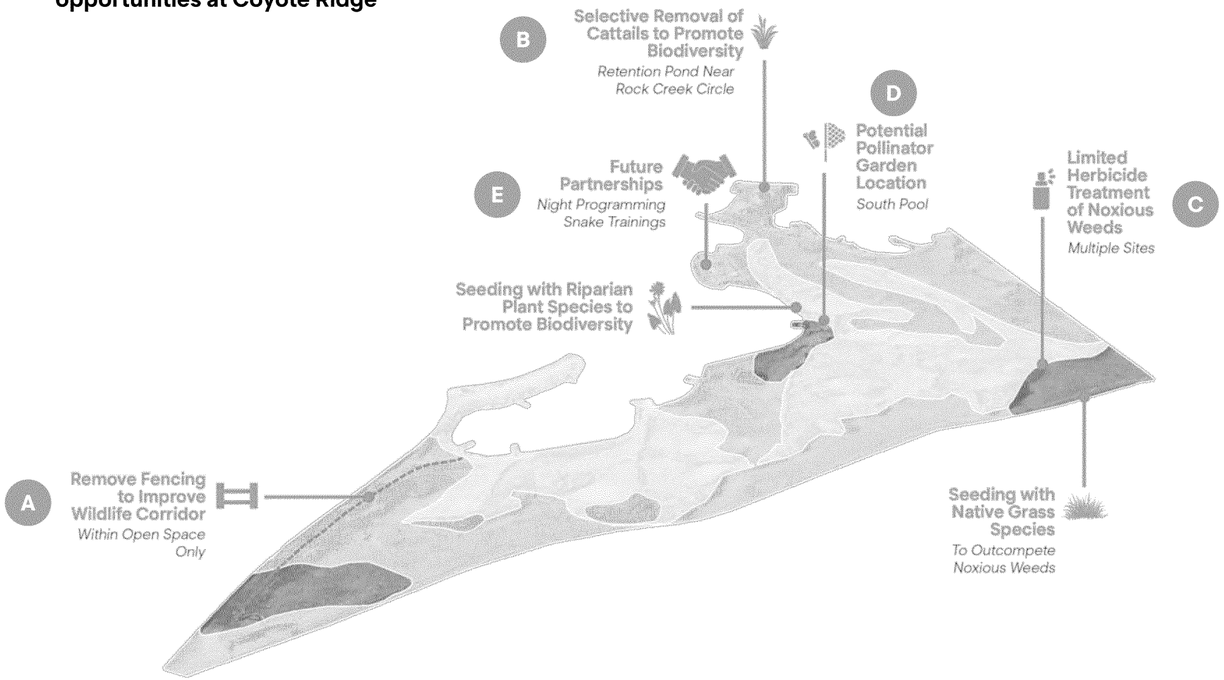
B Selective removal of cattails in the North Pond to increase biodiversity and seeding within riparian areas with native wetland/riparian species in order to increase biodiversity.

C Promote **natural methods for non-native species removal** like mechanical removal, grazing, and limit the use of pesticides, herbicides, and fertilizers (with noxious weed control the exception).

D Continued maintenance of noxious weed and invasive species areas, and promotion of **pollinator habitat.**

E Abide by the Town of Superior's weed and pest management system.

Diagram showing ecological opportunities at Coyote Ridge



REDUCE NOXIOUS WEEDS

Restoration + Management Approches

RECOMMENDATIONS

This data was collected by Pinyon Environmental and highlights the Class B & C noxious weeds found within Coyote Ridge that would recommend treatment first. The Colorado Noxious Weed Act clearly states the negative impact specific foreign species have on Colorado ecosystems: "Noxious weeds have become a threat to the natural resources of Colorado, as thousands of acres of crop, rangeland, and habitat for wildlife and native plant communities are being destroyed by noxious weeds each year." This master plan's recommendation is to establish self-sustaining populations of Short Grass prairie species in areas where noxious weed mitigation is occurring and where trail-side revegetation is needed. For more information about the use of these herbicides, refer to the Integrated Weed Management Plan from the Town of Superior.

Town of Superior's Integrated Weed Management Plan:
https://www.superiorcolorado.gov/departments/parks-recreation-open-space/weed-and-pest-management-program

Schedule:
As there is no formal existing schedule for herbicide application, developing a specific schedule for Coyote Ridge Open Space would help minimize invasive species establishment at the open space.

Noxious Weeds Present at Coyote Ridge:

Common Name	Scientific Name	State List	Management Goal
Canada Thistle	*Cirsium arvense*	B	Suppression
Cheatgrass (downy brome)	*Bromus tectorum*	C	Not Required
Common teasel	*Dipsacus fullonum*	B	Suppression
Dalmatian toadflax	*Linaria dalmatica*	B	Elimination prior to seed development
Field Bindweed	*Convolvulus arvensis*	C	Not Required
Leafy Spurge	*Euphorbia esula*	B	Suppression. Starting in 2028. elimination is required prior to seed development
Redstem filaree	*Erodium cicutarium*	C	Not Required

3 Classes of Noxious Weed in Colorado:

CLASS A

Rare & Not Well Established

These species are subject to **immediate eradication** in order to prevent them from gaining a foothold in the state.

CLASS B

Rarely Well Established with Discrete Statewide Populations

These species are subject to **eradication, containment, or suppression** in order to prevent their spread.

CLASS C

Widespread & Well Established

The control of these species are **recommended but not required.**

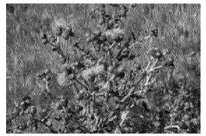
Source: Colorado Native Plant Society



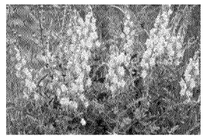
Biological Report Findings provided by Pinyon Environmental

Noxious Weeds:

1 **Canada Thistle**



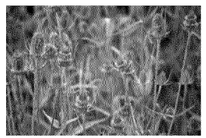
2 **Dalmatian Toadflax**



3 **Leafy Spurge**



4 **Common Teasel**



ESTABLISH NATIVE SEEDING + REVEGETATION AREAS

Restoring after noxious weed treatment

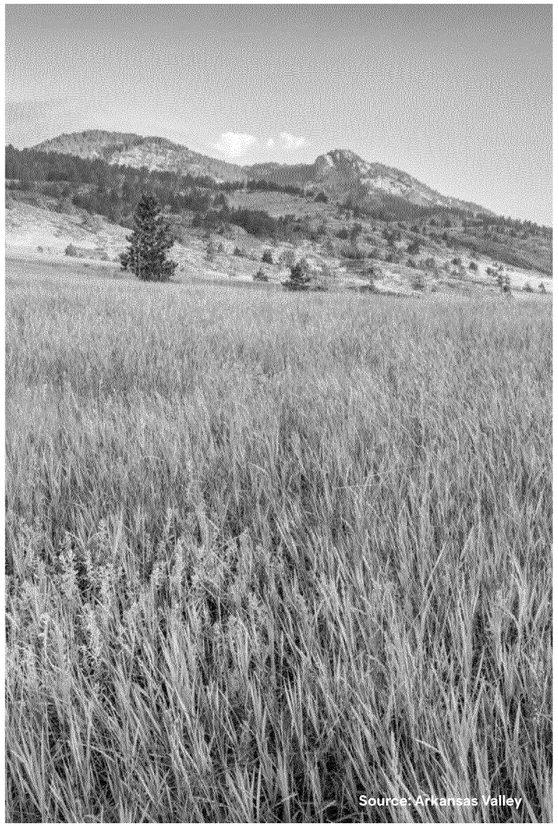
RECOMMENDATIONS

In accordance with the Boulder County Best Management Practices and by recommendation from the Town of Superior, to establish self sustaining populations of Short Grass prairie species in areas of the site that are being treated for noxious weeds or on social trails that are determined to need revegetating. The master plan encourages the town to use a seed mix consistent with the mix proposed that contains a mix of warm and cool season grasses and drought tolerant forbs. Refer to the Boulder County Best Management Practices for how to best revegetate closed trails. Additionally, refer to the Boulder Co. revegetation packet

Schedule:
Native seeding will be on an as need basis, depending on the results of the Trail Enhancement Plan and method or area of noxious weed treatment.

Method (Preferred):
While the Drill Method, complemented by a cutting substance for clear dispersal tracking, is the preferred approach, hand casting remains effective, albeit less efficient in achieving uniform seed distribution compared to the drilling method.

Seed Mix Recommendation:
Arkansas Valley - Foothills Mix







Dynamic native grasslands at Coyote Ridge Open Space.
July 2023

A closer look at designed spaces and recommendations throughout **4 landscape zones** in Coyote Ridge Open Space.

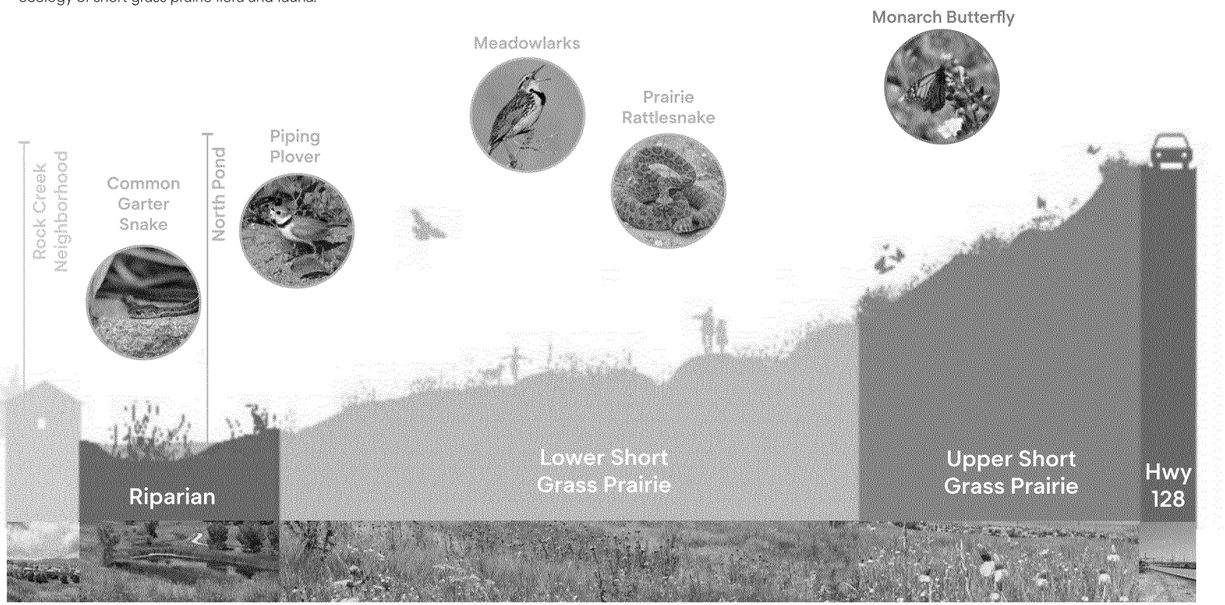
03

FOCUS ZONES

LANDSCAPE ZONES

Four distinct zones make up the Coyote Ridge Open Space landscape.

As an integral part of the South Platte River watershed system, Coyote Ridge Open Space offers access to a rich ecology of short grass prairie flora and fauna.

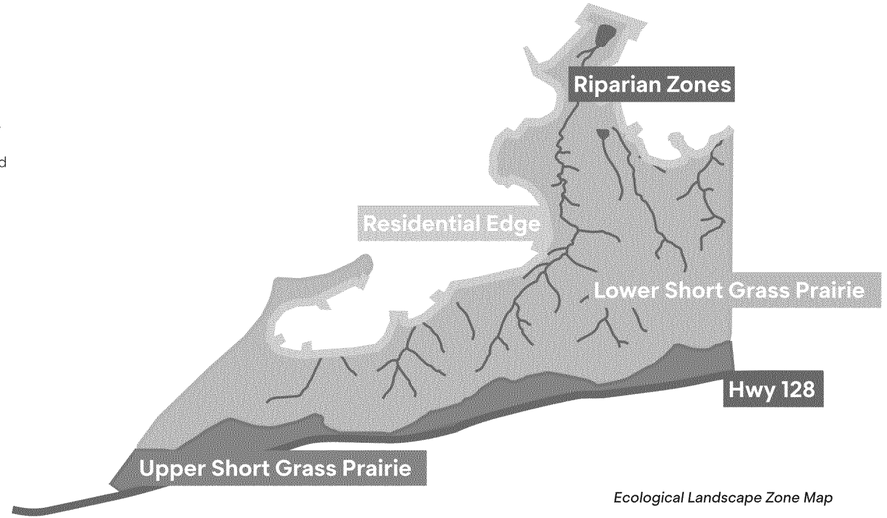


Ecological Landscape Zone Section from North Coyote Ridge to the South

Wildlife & Ecology Summary

Riparian areas in the open space could house the common garter snack which is a "State Special Concern Species" and shall be treated with care and conservation. Coyote Ridge's rattlesnake population is active from April to October, during daylight hours.

The study area provides a supportive habitat for migratory bird species; however, no migratory bird species were noted on the site during the biological resource study. Resident-led volunteer efforts have observed raptor activity in the area. Bird nesting occurs in the summer from April 1 to August 31. The wetlands at Coyote Ridge are classified as palustrine emergent wetlands and are dominated by cattails currently. There are several drainage channels and 2 ponds. Most of the drainage is ephemeral and only occurs during rain events as a result of the intense topography on site.



Ecological Landscape Zone Map

Residential Edge

- Ponderosa Pine
- Colorado Blue Spruce
- Plains Cottonwood

Riparian Zone

- Dominated by Cattails primarily

Lower Short Grass Prairie

- Blue Grama
- Smooth Brome
- Western Wheatgrass
- Scarlet Globemallow
- Prairie Spiderwort
- Desert Parsley

Upper Short Grass Prairie

- Blue Grama
- Smooth Brome
- Western Wheatgrass
- Scarlet Globemallow
- Prairie Spiderwort
- Desert Parsley

Hwy 128

- More noxious weeds present as disturbance is common

FOCUS ZONES

Recommendations and maintenance strategies by landscape zone

Coyote Ridge Open Space can be divided into four distinct landscape (4) zones based on the ecological and hydrological character, topography and location. The 'Upper Short Grass Prairie' zone is along Highway 128 on the south edge of the open space and is found along the upper ridge, is dry and exposed but has the best views. The 'Residential Edge' borders the open space and includes more planted trees and shrubs, and fencing adjacent to private residences. The 'Lower Short Grass Prairie' comprises the majority of the site (over 160 acres), is topographically varied based on historic erosion that created ridges and gullies. The 'Riparian Zone' is located within the low and shady points of these rolling hills where water and snow collect. In some cases, these zones require different maintenance strategies and have proposed recommended improvements that are specific to their zone. The following pages will address each zone in detail.

Key:

- Overlook or Educational Opportunity
- Parking Study
- Wayfinding
- Minimal Shade Structure
- Non-Combustible Seating Element
- Formalized Access Point
- ADA Trail Improvement
- Trail Revegetation Assessment
- Noxious Weed Treatment + Native Seeding
- Trail Reinforcement
- Combustible + Barbed Wire Fencing Removal
- Pruning + Trimming of Ladder Fuel

1 Upper Short Grass Prairie



2 Residential Edge



3 Lower Short Grass Prairie



4 Riparian Zone





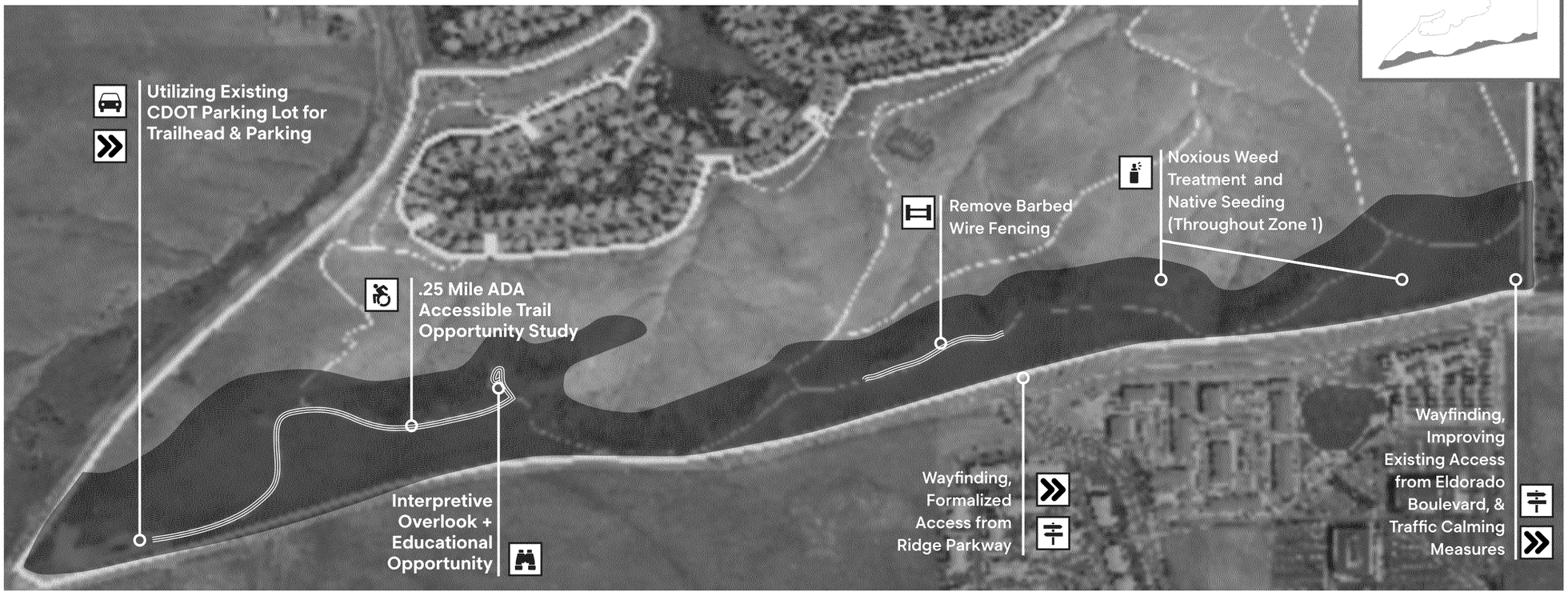
ZONE 1 : UPPER SHORT GRASS PRAIRIE

New + Improved Access

The Upper Ridge along the southern border of Coyote Ridge Open Space provides expansive views overlooking the Town of Superior and the foothills of the Rocky Mountains. The Open Space's existing access points primarily serve residents of the Town of Superior. The southern most edge follows highway 128, a busy 2-3 lane road which acts as a barrier into the space.

Zone 1 Improvements

High Priority	Trails to be Assessed by a Contractor and a Trail Enhancement Plan to be Developed for Revegetation and Improvements
	Upper Ridge ADA Trail Improvements (where feasible)
	Directional Signage
	Noxious Weed Treatment
Medium Priority	Seeding with Upland Mix post Noxious Weed Treatment to Promote Biodiversity
	Interpretive Signage
	Eldorado Boulevard Access
	CDOT Parking Lot
Lower Priority	Ridge Parkway Access
	Minimal Seating at Overlook



ZONE 1 : UPPER SHORT GRASS PRAIRIE

Improving Southern Edge Accessibility | Eldorado Boulevard

Dominated by blue grama (Bouteloua gracilis) and buffalograss (Bouteloua dactyloides) the shortgrass prairie landscape was the historic habitat of large herds of bison and naturally managed through grazing and wildfire. At Coyote Ridge, it is at the interface between homes and development and while the grassland is mostly intact, there are many noxious plant species. Noxious weeds pose a threat to native plant species and the overall plant diversity on the site. There are a variety of control measures for noxious weeds including herbicides, mechanical, cultural, and biological controls. Control measures vary for different noxious weed species. Containment and/or eradication of these species will promote native biodiversity as well as reduce potential fuels of noxious weed monocultures.

Social trails and erosion points should be closed off to potential human disturbances and revegetated. Seed mixes should include a mix of native cool and warm season annual and perennial grasses to support resilience and include native wildflowers to support native pollinators and other wildlife species. In some cases, soil amendments and decompaction of the soil may be necessary.

Overall, containing human activities to designated trail systems should be a priority as it will help reduce the spread of noxious weeds, reduce soil compaction, mitigate erosion, and promote native plant vegetation. The design team should consider containment tactics that avoid the use of mowing, mulching, and fence lines for the reasons explained above.

Why Regional Access + Connectivity?

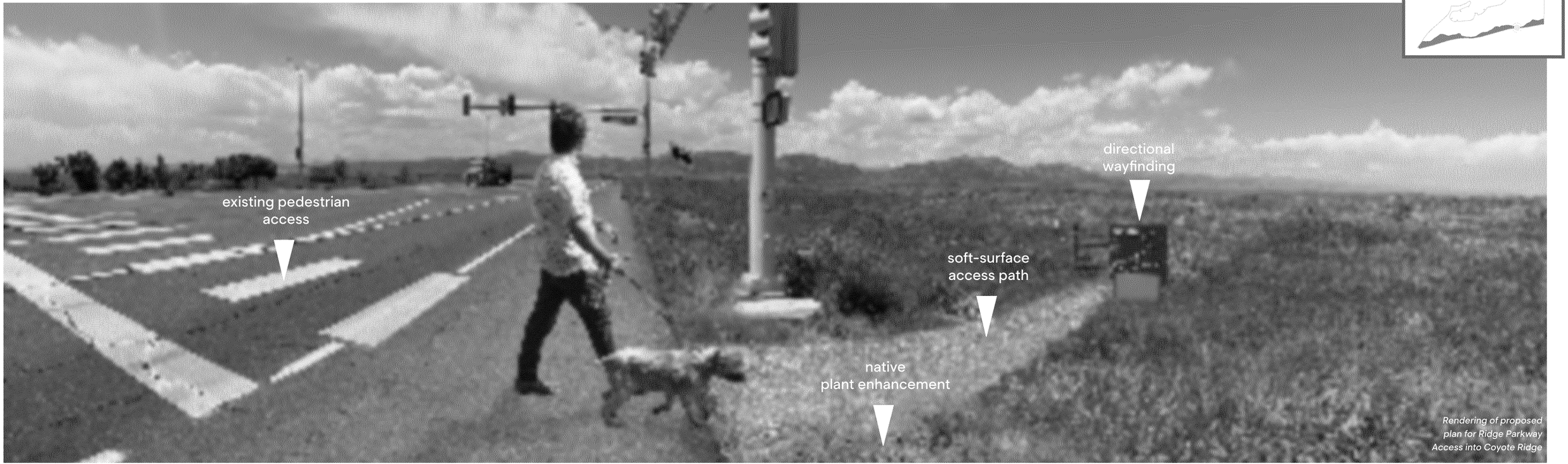
1. Support equitable access to public open space.
2. Provide improved, alternative transportation pathways through communities.
3. Leverage strengthened access maintenance resources through partnerships (i.e. grants).
4. Identify connection opportunities to regional trail systems

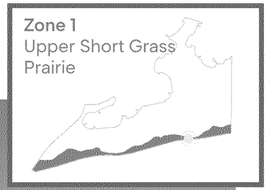


Rendering of proposed plan for Eldorado Boulevard Access into Coyote Ridge

ZONE 1 : UPPER SHORT GRASS PRAIRIE

Improving Southern Edge Accessibility | Ridge Parkway





Rendering of proposed plan for Ridge Parkway Access into Coyote Ridge

ZONE 1 : WESTERN COYOTE RIDGE

CDOT Parking Lot Study

On the south western portion of the open space, there is a cleared area owned by CDOT (Colorado Department of Transportation). Considering providing safe and equitable access for all into Coyote Ridge Open Space and help facilitate responsible use of the land. Additionally, the proposed parking area could provide ADA access along the northern ridge, which does not meet current ADA standards.

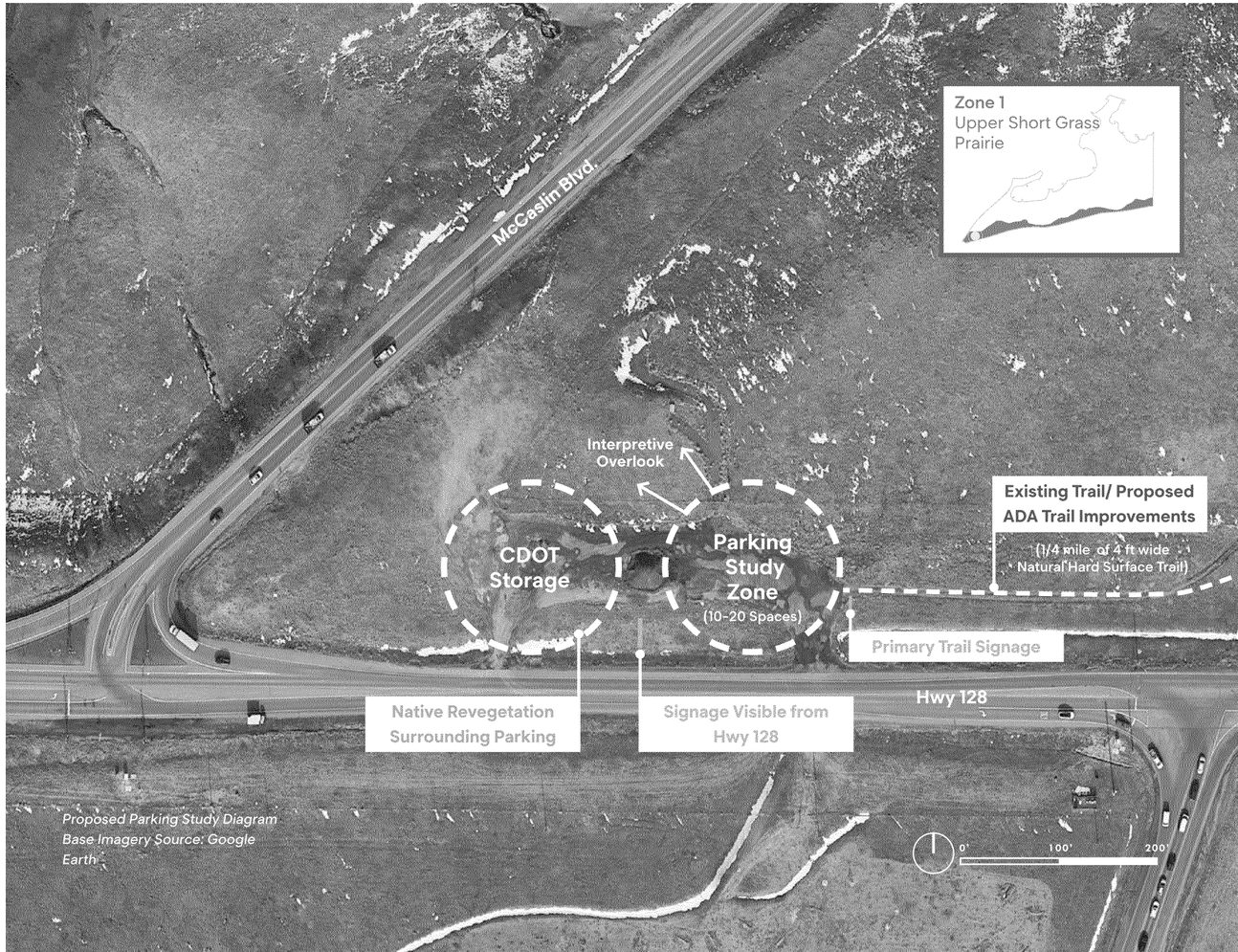
Why a parking lot?

1. Allow for equitable access along Coyote Ridge's Upper Ridge
2. Designate an unofficial-use area of the open space (invites more regular enforcement)
3. Increase touch points with open space visitors with education and regulation communication.
4. Improved programming opportunities at the open space.

> That parking lot has some of the best sunset views anywhere. I was disappointed when CDOT closed it off. We should develop it into a proper parking area and showcase the beauty of Superior.
>
> ~comment from public survey

Key Design Components:

- Pervious Surface (No Asphalt)
- Minimal Parking Spots (approx. 15 including 3 ADA spots)
- Interpretive Viewing Area(s)
- Visible Signage for Drivers and Primary Signage at Trailhead



Proposed Parking Study Diagram
Base Imagery Source: Google Earth

ZONE 2 : RESIDENTIAL EDGE

Urban - Wildland Interface

The residential edge of Coyote Ridge provides an opportunity to establish a defensible zone from future wildfire events and provides the main access points into the open space. The strategies listed below are focused around wildfire mitigation and improving the multi-use trails.

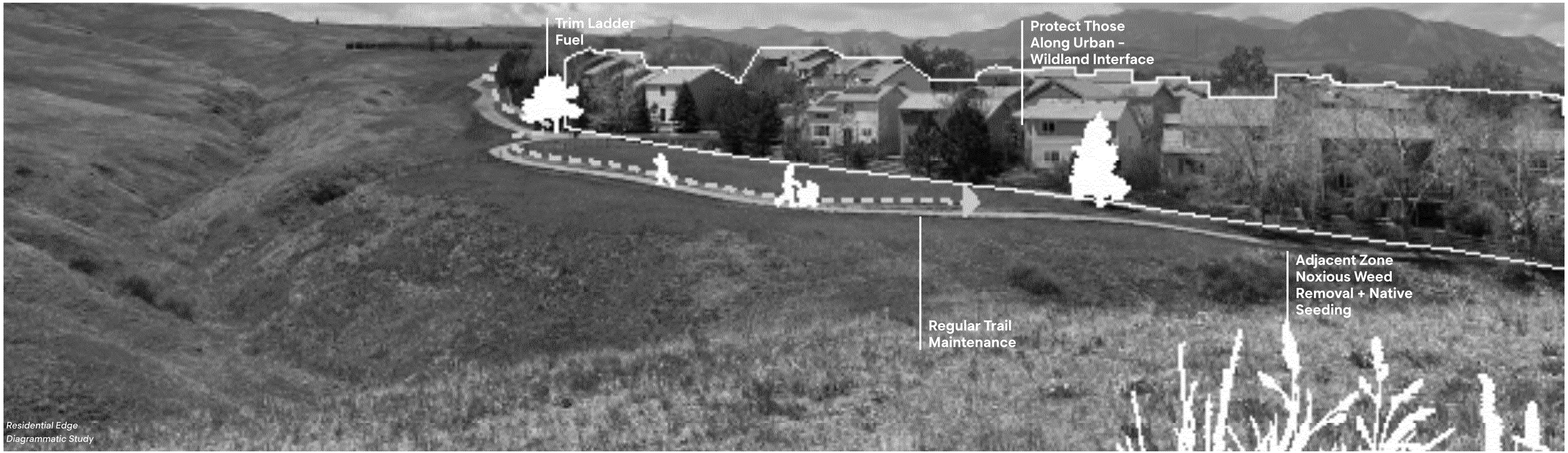
Zone 2 Improvements

High Priority	Pruning and Trimming of Ladder Fuel
	Trail Maintenance
	Pirate Park to Coyote Ridge Access Stairs
Medium Priority	Shade Structure at Pirate Park
	Noxious Weed Treatment
	Replace Sod with Native Plants (where feasible)
	Trails to be Assessed for Revegetation
Lower Priority	Various Signage Types at Specified Entrances
	Interpretive Signage



ZONE 2 : RESIDENTIAL EDGE

Urban - Wildland Interface

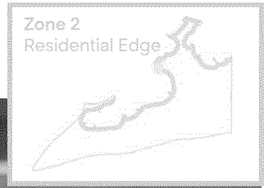


Residential Edge
Diagrammatic Study

ZONE 2 : RESIDENTIAL EDGE

South Pool Entrance Enhancements



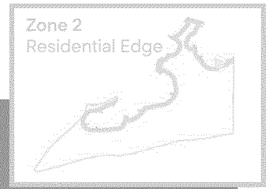


ZONE 2 : RESIDENTIAL EDGE

Pirate Park Accessibility



Pirate Park Improved Access Rendering



**The shade structure shown serves as a placeholder, structure type and location is yet to be made.

ZONE 3 : LOWER SHORT GRASS PRAIRIE

Preserving Coyote Ridge's Grasslands

This zone of Coyote Ridge is primarily characterized by short grass prairie and comprises a majority of the site. This area will have significant pedestrian traffic, localized to the eastern and western sections of the open space. The low maintenance and low impact improvements listed below are strategies that aim to preserve the open space and protect it from degradation from existing and future human recreation and enjoyment.

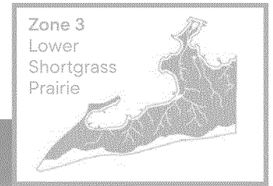
Zone 3 Improvements

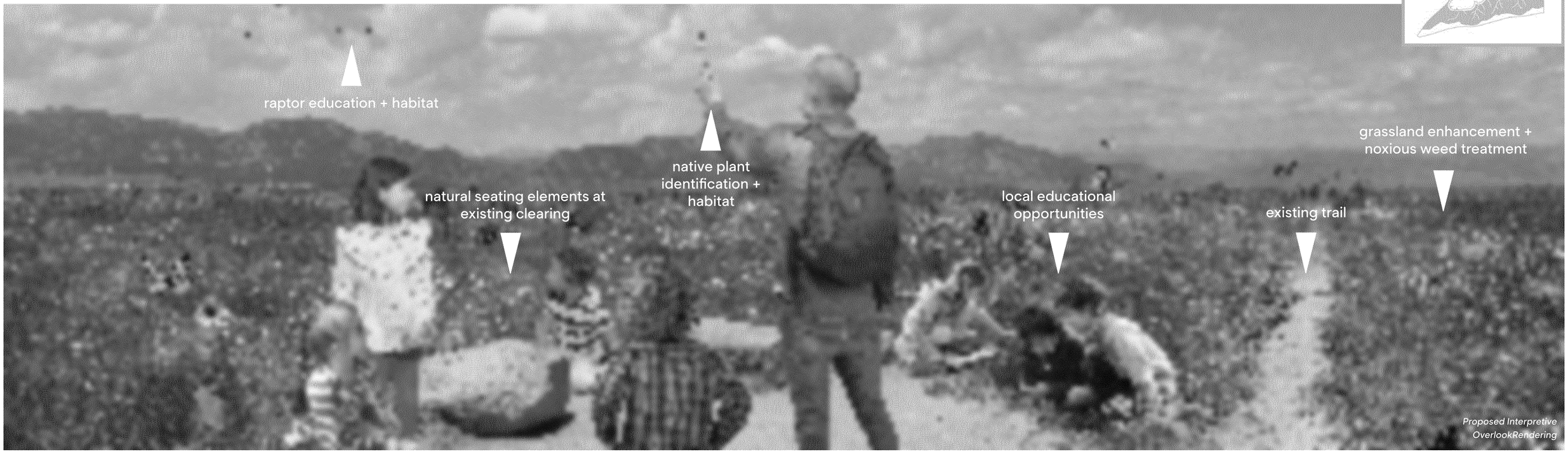
High Priority	Trails Analyzed for Stability & Accessibility
	Noxious Weed Treatment for Class B Species
	Seeding for Native Plant Revegetation (In Previous Noxious Weed Areas)
	Directional Signage at Intersections
Medium Priority	Educational Overlook
	Redundant / Social Trails to be Assessed for Revegetation
Lower Priority	Benches added to Select Areas
	Interpretive Signage at Educational Overlook, refer to page 36-37 for Rotational Interpretive Signage Schedule



ZONE 3 : LOWER SHORT GRASS PRAIRIE

Educational Overlook





Proposed Interpretive OverlookRendering

ZONE 4 : RIPARIAN ZONE

Improving Riparian Habitat

The riparian zone at Coyote Ridge Open Space includes the ephemeral wetlands that occur within the valleys between the rolling hills, and the retention pond that holds water year-round at the north end of the site. All of the water on site flows to this pond, creating a new ecology typology for the open space's native flora and fauna. The strategies below focus on ecological enhancement and preservation of the site's natural features.

Zone 4 Improvements

High Priority	Selective Removal of Cattails to Promote Biodiversity
	Alternative Noxious Weed Removal Strategies for B species
Medium Priority	Seeding along palustrine emergent wetlands to out compete Noxious Weed B Species
Lower Priority	Overseeding to outcompete Noxious Weed C Species
	Interpretive Signage



ZONE 4 : RIPARIAN ZONE

Improving Riparian Habitat

Improving the existing aerated retention pond will enhance visitor sightings of the local ecology.

Selective removal of cattails species within the northern pond falls in alignment with the Sustainability Action Plan's action N1.6 by assessing and renovating "ponds that may be approaching their viable lifespan." (Pg. 52, Sustainability Action Plan).

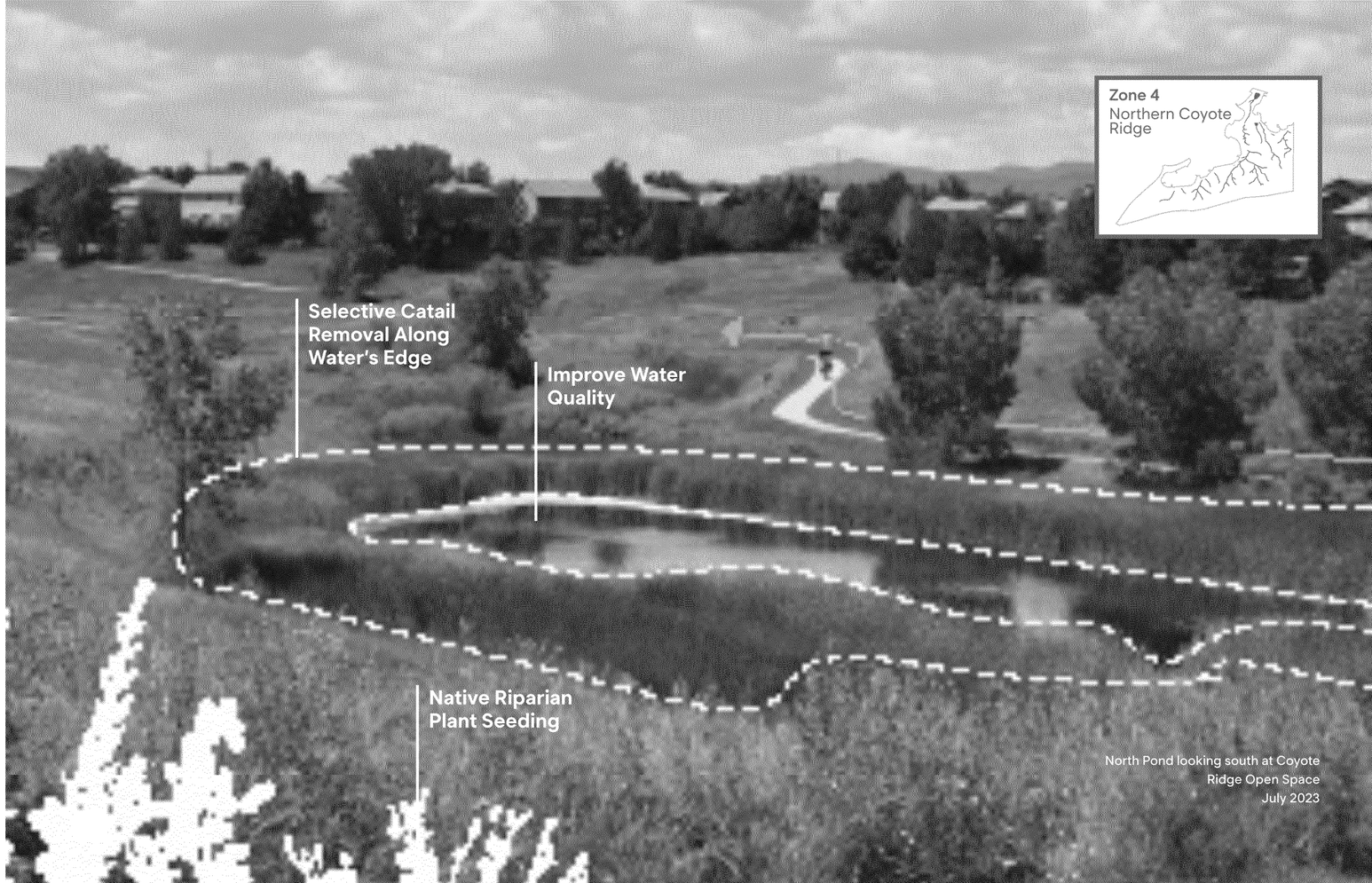


Steep site wetlands looking south

Due to the narrow corridors created by the steep hills, alternative methods of noxious weed control will need to be utilized in the Riparian Zone.

Comments from the Public:

- "We love listening to the frogs and red-winged blackbirds at this pond"
- "We love birdwatching near this pond, but it's not very enjoyable in the summer"
- "This pond is very pretty sometimes but requires better maintenance to keep the algae down and reduce the foul odors."



North Pond looking south at Coyote Ridge Open Space
July 2023



04

FUTURE PROGRAM RECOMMENDATIONS

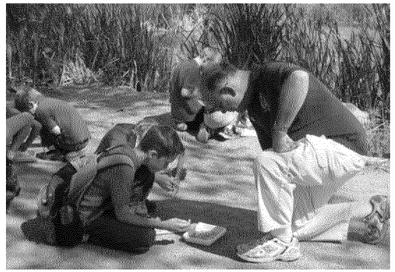
POTENTIAL PARTNERSHIPS + PROGRAMMING

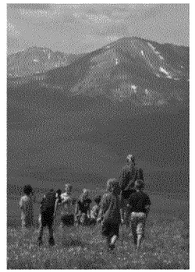
Through partnerships and alternative funding enhance programming and conservation of Coyote Ridge Open Space for generations to come.

Great Outdoors Colorado

There's a lively nightlife at Coyote Ridge open space with bats, moths, and other creatures of the night inhabiting the grasslands. Educational events hosted at night are recommended to help folks get comfortable with nature and better understand their open space ecology. With the growth of a consistent educational events program, the open space and Town staff will "continue to provide environmental education programs for residents of all backgrounds and ages." (Pg. 53, Sustainability Action Plan) falling in alignment with the Town of Superior's Sustainability Action Plan.

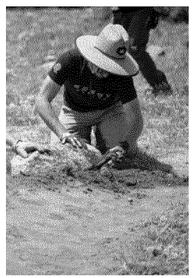
1. Forge partnerships with community stewardship and story-telling programs such as local wildfire groups within Boulder, Louisville and Superior.
2. Apply for grant funding through Great Outdoors Colorado, pictured above.
3. Utilize Chronolog community photography tracking program to track open space ecosystem evolution.
4. Partner with the Prairie Dog Coalition to host workshops and events for community education.





School Field Trip Days

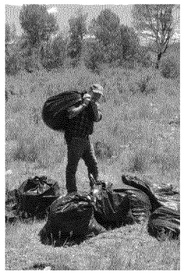
Incorporating activities like plant, bird and invertebrate identification, field trips for students from local schools like Superior Elementary, Eldorado K-8, and Monarch High School provide an enriching outdoor education opportunity, fostering a deeper connection to the environment and nurturing future environmental stewards.





Trail Maintenance

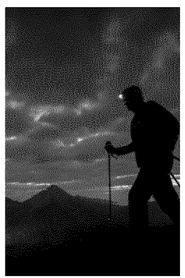
Engaging the community in trail maintenance at Coyote Ridge Open Space offers a practical opportunity to teach Superior residents about erosion control and responsible trail use, fostering a deeper understanding of sustainable land management and environmental conservation.





Noxious Weed Removal

This community-driven approach will help preserve the environment and strengthen the sense of collective environmental stewardship among residents.





Staff-led Hikes

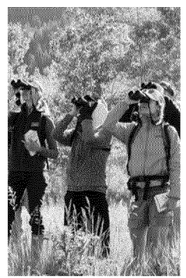
Staff-led hikes at Coyote Ridge not only offer recreational opportunities but also serve as informative sessions, educating Superior locals about their local ecologies. These hikes provide a platform for residents to connect with nature and gain a deeper appreciation of the unique ecosystems found in their own backyard.





Community Monitoring

Ecological community monitoring at Coyote Ridge Open Space enhances the communities' understanding of the area's ecology and serves a valuable educational tool for the community e.g. Chronolog.





Wildlife Workshops

This master plan also suggests organizing wildlife workshops to educate the community about snake and coyote awareness, fostering a deeper understanding of local wildlife and promoting harmonious coexistence with these species.



05

RESOURCES + REFERENCES

RESOURCES

The following documents and webpages were integral in the development of this master planning document.

The following documents are included within the Appendix of this master planning document.

Appendix Table of Contents:

A. Biological Resources Technical Memorandum by Pinyon Environmental, Inc. - May 2023
B. Sustainability Technical Memorandum by Pinyon Environmental, Inc. - August 2023
C. Final Survey Report by EngagementHQ (Round 1) - July 2023
D. Final Survey Report by EngagementHQ (Round 2) - October 2023

Additional Supporting Sources:

Jefferson County Open Space Conservation Greenprint 2020-2025
City of Boulder Open Space Master Plan
Town of Superior Parks, Recreation Open Space and Trails Master Plan
Town of Superior Sustainability Action Plan
Guide to the Ecological Systems of Colorado
Remains of the Day
Acquisition Announcement from Boulder County
JeffCO CWPP
Boulder County CWPP
City of Boulder OSMP
City of Boulder County Open Space and Mountain Parks Department Ecological Best Management Practices for Planning and Design, Construction, Maintenance, and Closure

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3222 South Vance Street, Suite 200, Lakewood, CO 80227
T: 303.980.5200 F: 303.980.0089
www.pinyon-env.com

Biological Resources Technical Memorandum

Date:	May 29, 2023
To:	Dominique Raymond, Landscape Designer| Project Manager, Superbloom
From:	Erin Tessens, Biologist, Pinyon Environmental, Inc.
Subject:	Biological Resources Technical Memorandum for the Coyote Ridge Open Space Master Plan, Town of Superior, Colorado

Introduction/Project Description

As part of the process to develop a Master Plan, Superbloom has contracted Pinyon Environmental, Inc. (Pinyon), to conduct a biological resources assessment of the Coyote Ridge Open Space in the Town of Superior, Colorado (Figure 1). The purpose of this Biological Resources Technical Memorandum is to assess existing conditions regarding biological resources and protected species at the property. These resources have value as natural resources and they are also protected by the following federal and state regulations or policies:

- The U. S. Endangered Species Act (ESA): Protects federally listed plant and animal species with the goal of ensuring their long-term survival. The U.S. Fish and Wildlife Service (USFWS) administers these requirements.

- The Colorado Non-game, Endangered, and Threatened Species Conservation Act: Protects state-listed and state special concern species with the goal of ensuring their long-term survival. Colorado Parks and Wildlife (CPW) administers these requirements.

- Bald and Golden Eagle Protection Act (BGEPA): Protects Bald (*Haliaeetus leucocephalus*) and Golden (*Aquila chrysaetos*) Eagles. The USFWS administers these requirements.

- Migratory Bird Treaty Act (MBTA): Protects birds, their active nests, and their eggs (except rock doves [*Columbia livia*], European starlings [*Sturnus vulgaris*], and some other non-native birds). The USFWS administers these requirements.

- Noxious Weed Act of 2003 (CRS 35-5-101; CRS 35-5.5-101; Executive Order (EO) D-006-99): The Colorado Department of Agriculture (CDA) defines and prioritizes management objectives for state-designated noxious weeds.

Location

Coyote Ridge Open Space is located in the Town of Superior, Boulder County, Colorado (Figure 1) as shown on the U.S. Geological Survey (USGS) 7.5-Minute Quadrangle, Louisville, 2022 (USGS, 2022). Table 1 describes the location, in detail, of the location of Coyote Ridge Open Space boundaries, which is referred to hereafter as the study area.

Table 1. Study Area Location Summary

Latitude, Longitude[1]	Section (S), Township (T) Range (R)[2]	Elevation[3]
39.917516°, -105.151236°	S1, 6, and 31, 32, and 36, T1 and 2 South, R69 and 70 West	5,525 to 5,850

[1]Approximate center of study area (World Geodetic System of 1984)

[2]Section, Township, and Range in the 6th Principal Meridian

[3]Approximate elevation range above mean sea level in feet

Methodology

Pinyon biologist Erin Tessens conducted a preliminary desktop investigation of biological resources in the study area using publicly available information, including the following:

- Aerial imagery and street-view photography (Google Earth Pro, 2023)
- U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) System (USFWS, 2023a)
- Colorado Natural Heritage Program (CNHP) Colorado Conservation Data Explorer (CODEX) List (CNHP, 2023)
- Colorado Parks and Wildlife (CPW) Threatened and Endangered List (CPW, 2023a)
- CPW Species Activity Mapping data (CPW, 2023b)
- USFWS National Wetlands Inventory Mapper (USFWS, 2023)
- U.S. Department of Agriculture (USDA) soil maps (USDA, 2019)
- U.S. Geological Survey (USGS) 7.5-Minute Topographic Maps (USGS, 2022)
- USGS National Hydrography Dataset (USGS, 2023)
- CDA Noxious Weed List (CDA, 2020a)

Pinyon was provided with the boundaries of the study area prior to the site visit. (Figures 1 and 2). Following the desktop review, Erin visited the site on May 16, 2023, to assess the following biological resources:

- General habitat and vegetation
- Habitat suitability for federally and state-listed species, and state species of concern
- Habitat suitability for migratory birds within the study area and raptors within 0.5 mile of the study area
- Aquatic resources, including wetlands and non-wetland waters
- Noxious weeds

These resources were assessed visually, and a wetland delineation in accordance with U.S. Army Corps of Engineers (USACE) protocols was not conducted. Photographs of the study area were taken (Photographic Log).

Results

General Habitat and Vegetation

The study area is a designated Open Space area by the Town of Superior with general bounds to the south by Colorado Highway 128 (CO-128), to the east by McCaslin Boulevard (McCaslin Blvd), and to the east by Eldorado Boulevard (Eldorado Blvd). Along the northern boundary, the study area abuts residential homes/neighborhoods. Also near the study area are other natural areas such as Colorado Hills Open Space to the south and Rocky Flats National Wildlife Refuge to the southwest.

The study area was comprised of a diverse plant community, mostly consisting of shortgrass prairie vegetation; however, some trees and shrubs were located in patches within the property. Upland vegetation consisted of a variety of cool and warm season grasses such as blue grama (*Bouteloua gracilis*), smooth brome (*Bromus inermis*), and western wheatgrass (*Pascopyrum smithii*). There were also many wildflowers throughout the study area including prairie spiderwort (*Tradescantia occidentalis*), desert madwort (*Alyssum desertorum*), desert parsley (*Lomatium bicolor*), scarlet globemallow (*Sphaeralcea coccinea*), sand lily (*Leucocrinum montanum*), and milkvetch species (*Astragalus* sp.) Lastly, there was a variety of cactus species including prickly pear (*Opuntia* spp.), Simpson's hedgehog cactus (*Pediocactus simpsonii*), and nylon hedgehog cactus (*Echinocerus viridiflorus*).

There were many social trails created by visitors throughout the. Main trailways were mowed along the edges on both sides of the pathways. Along the edges on these mowed trails and social trails, many non-natives and/or noxious weeds were present such as smooth brome, desert madwort, storksbill (*Erodium cicutarium*: List C noxious weed), and Canada thistle (*Cirsium arvense*; List B noxious weed).

Protected Species and Other Wildlife

Federally Listed Species

Based on a review of the USFWS online Information for Planning and Consultation (IPaC) System, there are species with the potential to occur in, the Open Space. There are other federally listed species that may be impacted by future potential project activities, and are discussed in the paragraph below (USFWS, 2023a).

The pallid sturgeon (*Scaphirhynchus albus*; federally listed as endangered [FE]) and Piping Plover (*Charadrius melodus*; federally listed as threatened [FT]) are included because they occur downstream of the study area and could be impacted by projects that result in water depletions to the South Platte River or its tributaries. To address the effects depletions may have on federally listed species that depend on the river for their survival, agencies and organizations in Colorado, including public water suppliers, participate in the South Platte Water Related Activities Program (SPWRAP). If water for this project is sourced from a public water source within the South Platte River basin, potential effects to downstream species would presumably to be addressed through SPWRAP via the water provider; therefore, these two species are not discussed further. Additionally, the western prairie fringed orchid (*Platanthera praeclara*; FT), and Whooping Crane (*Grus americana;* FE) are included. These species have traditionally been included as downstream species like the pallid sturgeon and Piping Plover but are currently included as "wherever found." As these species could occur downstream of the study area, they have been addressed under the SPWRAP and are not discussed further.

Pinyon evaluated the potential for the remaining species listed in the IPaC system to occur in the study area based on an assessment of habitat and species distributions (Table 2).

Table 2. Potential for Federally Listed Species to Occur in the Study Area

Common Name	Species	Federal Status	Habitat	Potential for Occurrence in the Study Area[1]
Fish				
Greenback cutthroat trout	*Oncorhynchus clarki* ssp. *stomias*	FT	Formerly extirpated from its native range, the greenback cutthroat trout is known as a self-sustaining population from a single location in Colorado: a four-mile stretch of Bear Creek south of Pike's Peak. Adapted to cold, clear, oxygenated streams of moderate gradient.	**None.** Suitable habitat does not occur in the study area.
Mammals				
Gray wolf	*Canis lupus*	FE	Lone, dispersing gray wolves may be present throughout the state of Colorado, but is only known to occur in northwest Colorado in areas of low human occupancy.	**None.** Although suitable habitat was noted, there are no established wolf packs in or near the study area.
Preble's meadow jumping mouse	*Zapus hudsonius preblei*	FT	Riparian areas of permanent or intermittent streams with herbaceous cover and adequate cover of shrubs and trees.	**None.** Although the study area is located only 1.1-mile southwest of mapped occupied habitat, habitat in the study area is not suitable for the species. Additionally, the study area is within the block clearance zone (CPW, 2023b; USFWS, 2023a).
Insects				
Monarch butterfly	*Danaus plexippus*	FC	A variety of habitats that feature their obligate larval host plant, milkweed (*Asclepias* spp.)	**Low.** No milkweed was observed; however, monarch butterflies have the potential to migrate through the study area. Additionally, many other wildflowers were present in the study area, providing potential habitat for pollinators such as the monarch butterfly.
Plants				
Ute ladies'-tresses orchid	*Spiranthes diluvialis*	FT	Sub-irrigated alluvial soils along streams; open meadows on floodplains including riparian areas. The species generally occurs at elevations below 6,500 feet.	**None**. Suitable habitat does not occur in the study area.

FT = federally listed as threatened; FE = federally listed as endangered; FC = candidate for federal listing

[1]Based on a review of distribution maps from NatureServe Explorer online (NatureServe, 2023) and Colorado Parks and Wildlife Species Activity Mapping (CPW, 2023b).

State-listed and State Special Concern Species

CPW lists amphibians, birds, fish, mammals, reptiles, and mollusk species as endangered, threatened or of special concern within the state of Colorado (CPW, 2023a). The majority of these species are not expected

to occur in the study area because the study area is outside of their range or appropriate habitat is not present. Pinyon conducted a habitat assessment for species identified in the CNHP CODEX list with the potential to occur in the study area (Table 3).

Table 3. Potential for State Listed and State Special Concern Species to Occur in the Study Area

Common Name	Species	State Status	Habitat	Potential for Occurrence in the Study Area[1]
Birds				
Bald Eagle	*Haliaeetus leucocephalus*	SC	Open canopies with large, mature trees for perching and nesting. Prefer areas near open waters.	**Low**. No eagle nests were mapped or noted within 0.5 mile of the study area, and there is no suitable roosting or nesting habitat for the species within the study area (there are no large trees). However, Bald Eagle winter concentration, forage, and range is mapped within the boundaries of the study area (CPW, 2023b). There is potential that the species may forage or migrate over the study area.
Burrowing Owl	*Athene cunicularia*	ST	Burrows in prairie dog colonies in open grasslands, especially prairie, plains, and savanna.	**None**. Suitable habitat does not occur in the study area. No black-tailed prairie dog burrows were noted within 0.5 mile of the study area during the site visit or from review of desktop imagery.
Ferruginous Hawk	*Buteo regilis*	SC	Semiarid grasslands with scattered trees, often with rocky mounds or outcrops.	**Low.** Suitable habitat occurs within the study area for foraging. However, large trees for nesting habitat are not present within the study area.
Mammals				
Black-tailed prairie dog	*Cynomys ludovicianus*	SC	Shortgrass or mixed-grass prairie. Common in most of the counties of the eastern plains, especially those immediately along the Front Range.	**None**. No black-tailed prairie dog burrows were noted within 0.5 mile of the study area during the site visit or from desktop imagery.
Reptiles				
Common garter snake	*Thamnophis sirtalis*	SC	Marshes, ponds, and the edges of streams; generally restricted to aquatic, wetland, and riparian habitats along the floodplains of streams; seldom found away from water or at isolated ponds. Active in shallow water and on land adjacent to water.	**High**. The study area is located within mapped occupied range and has suitable habitat (CPW, 2023b).

ST = state listed as threatened, SC = State Special Concern species (not a statutory category).

[1]Based on a review of distribution maps from NatureServe Explorer online (NatureServe, 2023), CPW Species Activity Mapping (CPW, 2023b), and the CNHP CODEX list generated for the study area (CNHP, 2023).

Other Wildlife

Rattlesnake (*Crotalus viridis*) habitat occurs in the study area, and the Town of Superior has reported sightings by members of the public. Rattlesnakes primarily occur in a wide variety of upland areas from prairies to wooded mountains (NatureServe, 2023). They hibernate in winter, sometimes congregating in hibernation dens. Rattlesnakes are active during the day throughout the months of April through October.

Migratory Birds

The study area provides habitat for a wide variety of migratory birds, such as songbirds and raptors. The MBTA protects birds and their active nests (except for rock doves [*Columbia livia*], European starlings [*Sturnus vulgaris*], and some other non-native birds). In Colorado, most nesting and rearing activities occur between April 1 and August 31; however, raptors may nest as early as December. These timeframes are guidelines and nesting birds are protected under the MBTA year-round.

Although no migratory bird nests were noted within the study area, trees, shrubs, and grasses in or near the study area provide nesting sites for migratory birds. Although there is potential nesting raptor habitat (e.g., large deciduous trees) within 0.5 mile of the study area, no raptor nests (active or inactive) were noted during the site visit.

Aquatic Resources

Non-Wetland Waters

There were several drainages and two ponds noted within the study area (Figure 2). The presence of many of these drainageways was due to the topographic nature of the study area and they were dry at the time of the visit. They appear to have water only during rain events. Many of these features are not depicted within the study area in either in the USGS 7.5-Minute Quadrangle Map, USGS National Hydrography Dataset, or USFWS National Wetlands Inventory (USGS, 2022; USGS 2023; USFWS, 2022).

Wetlands

Although no wetland delineation was performed, several potential wetlands were observed along drainage ways and pond (Figure 2). These wetlands were mapped based on observed hydrophytic vegetation and potential wetland hydrology. Wetlands found within the study area were classified as palustrine emergent wetlands, dominated by cattails (*Typha* sp.). They were found in wet drainageways and in the northern pond in the northern portion of the study area.

Noxious Weeds

The CDA classifies noxious weed species into three categories: List A, List B, and List C. List A species are designated by the Commissioner of the CDA for eradication, List B species are managed to stop continued spread, and List C species are not required to be managed by local jurisdictions but are monitored to provide additional education and research (CDA, 2020b). Noxious weed species noted within the study area, along with the associated management goals, are presented in Table 4. The locations of the noxious weed species are shown in Figure 2.

Table. 4 Noxious Weeds Identified in the Study Area

Common Name	Scientific Name	State List[1]	Management Goal[2]
Canada thistle	*Cirsium arvense*	B	Suppression
Cheatgrass (downy brome)	*Bromus tectorum*	C	Not Required
Common teasel	*Dipsacus fullonum*	B	Suppression

Common Name	Scientific Name	State List[1]	Management Goal[2]
Dalmatian toadflax	*Linaria dalmatica*	B	Elimination prior to seed development
Field bindweed	*Convolvulus arvensis*	C	Not Required
Leafy spurge	*Euphorbia esula*	B	Suppression. Starting in 2028, elimination is required prior to seed development
Redstem filaree	*Erodium cicutarium*	C	Not Required

[1]Colorado Noxious Weed List (CDA, 2020a)

[2]Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act (CDA, 2020b)

Of special note, yellow flag iris (*Iris pseudacorus*) may be present within the water facility, located in the central portion of the study area (Figure 2). However, this area was gated off and access was not permitted. Yellow flag iris is a List A species and elimination would be required upon confirmation.

Conclusions and Recommendations

Pinyon assessed the study area for the presence of biological resources including habitat suitability for federally and state-listed species, migratory birds and raptors, aquatic resources, noxious and weeds. The following provides a summary of results and recommendations for next steps.

Federally and State-Listed Species

Federally Listed Species

Monarch Butterfly

There is a potential for monarch butterflies to occur within the study area. The monarch butterfly is a candidate species and is not yet listed or proposed for listing under the Endangered Species Act. There are generally no Section 7 consultation requirements for candidate species. Although no further consultation or mitigation for the monarch butterfly would be required if a future project would impact upland areas within the study area, Pinyon recommends that native forbs be included in the seed mix for the revegetation of areas disturbed by future project activities. If the Town of Superior wishes to encourage the presence of Monarch butterflies, the Open Space could be seeded with milkweed plants in select areas.

State-listed and State Special Concern Species

Bald Eagle

There is a low potential for Bald Eagles (SC) to forage within the study area. Bald Eagles are also protected under the MBTA and have additional protections under the BGEPA. The study area does not provide quality Bald Eagle roosting or nesting habitat, though Bald Eagles may be present in the study area for foraging or during migration. In general, the project footprint is small in comparison to daily Bald Eagle movement and foraging patterns; therefore, construction activities from potential projects would likely be minor for this species. Maintaining the area as open space would help reduce further habitat fragmentation and continue to provide foraging habitat for Bald Eagles.

Common Garter Snake

There is a high potential for common garter snakes (SC) to occur within the study area. Although these species have no regulatory protections, Pinyon recommends the footprint of proposed projects minimized as practicable in order to minimize impacts to the garter snake. For example, disturbed areas from trail or parking lot construction should be limited to the minimal area needed for project construction activities. Areas

temporarily disturbed during future construction should be re-seeded with a native seed mix, and noxious weeds should be treated per the project's weed management plan. Construction personnel should be instructed to be aware of wildlife that could occur onsite and to refrain from harassing or killing wildlife or encroaching into habitats beyond the immediate construction area.

Other Wildlife

Rattlesnakes are known to occur in the study area. Rattlesnake populations are not considered under threat in the state of Colorado, nevertheless, rattlesnakes can pose a management challenge for local governments due to the safety risk they pose to people and pets. In areas where high densities of rattlesnakes are known to occur, Pinyon suggests avoiding placing trails through those areas. If this is not feasible, educational signage and signs instructing trail users to stay on the trail and leash dogs are recommended. During trail construction, personnel should be trained on rattlesnake safety awareness, and snake chaps can be provided as supplemental personal protective equipment.

Migratory Birds

No migratory bird or raptor nests were noted; however, migratory birds likely nest and forage in or on grasses, trees, and shrubs in the study area. Migratory birds are protected under the MBTA at all times, and if construction will occur during the nesting season, Pinyon recommends that a qualified biologist conduct pre-construction nest surveys if construction is to occur during the nesting season. The wide variety of birds that use Coyote Ridge Open Space presents an opportunity for interpretive signage and educational programs for citizens and visitors.

Aquatic Resources

There were several drainages mapped within the study area, showing general water flow direction across the site. Most of these drainages were dry at the time of the visit and appear to only have water during rainfall events. Some drainages contained water and were associated with potential wetlands. There were several potential wetlands identified within the study area. Pinyon recommends avoiding constructing trails or other infrastructure in these areas. If wetland and other water areas cannot be avoided, impacts may need to be authorized by the USACE under Section 404 of the Clean Water Act.

Noxious Weeds

Noxious weeds were present in the study area. List B and List C weeds identified did not appear to be greater in densities than the surrounding areas. Noxious weeds must be managed by landowners, and Pinyon recommends the Best Management Practices be included in the project notes to minimize the spread of noxious weeds if construction is to occur in the future:

- Vehicles should be inspected before they are used for construction to ensure that they are free of soil and debris capable of transporting noxious weed seeds or roots. Heavy construction equipment shall be cleaned prior to use on the project site.

- Material for erosion bales, mulching, or compost should consist of certified weed-free material. Certified weed-free erosion bales are identified by blue and orange twine binding the bales. Materials for mulching should consist of certified weed-free field or marsh hay or straw of oats, barley, wheat, rye, or triticale certified under the CDA weed-free forage certification program.

- Fertilizer should not be used in seeded areas because it can enhance the growth of noxious weeds at the expense of desired vegetation.

Additionally, Pinyon recommends a qualified biologist revisit the gated water tank area to confirm the presence of the yellow flag iris. If yellow flag iris is confirmed, immediate eradication is recommended. Further, noxious weed management should be part of the Open Space's overall maintenance and management program, especially around trails and parking areas.

Limitations

This report was prepared by Pinyon, at the request of and for the sole benefit of Superbloom and the Town of Superior, or any entity controlling, controlled by, or under common Superbloom and the Town of Superior. The conclusions and recommendations offered in this report are based on the data obtained from a limited number of samples within a prescribed study area as described in the text. Soil, hydrologic, vegetation, biological and ecological conditions typically vary even over short distances, by season, by elevation, and by meteorological conditions. Thus, the nature and extent of variations outside this biological investigation may not become evident except through further investigation. It is possible that ecological conditions may change from those observed, particularly over time.

Attachments

Figure 1. Project Location
Figure 2. Biological Resources
Photographic Log

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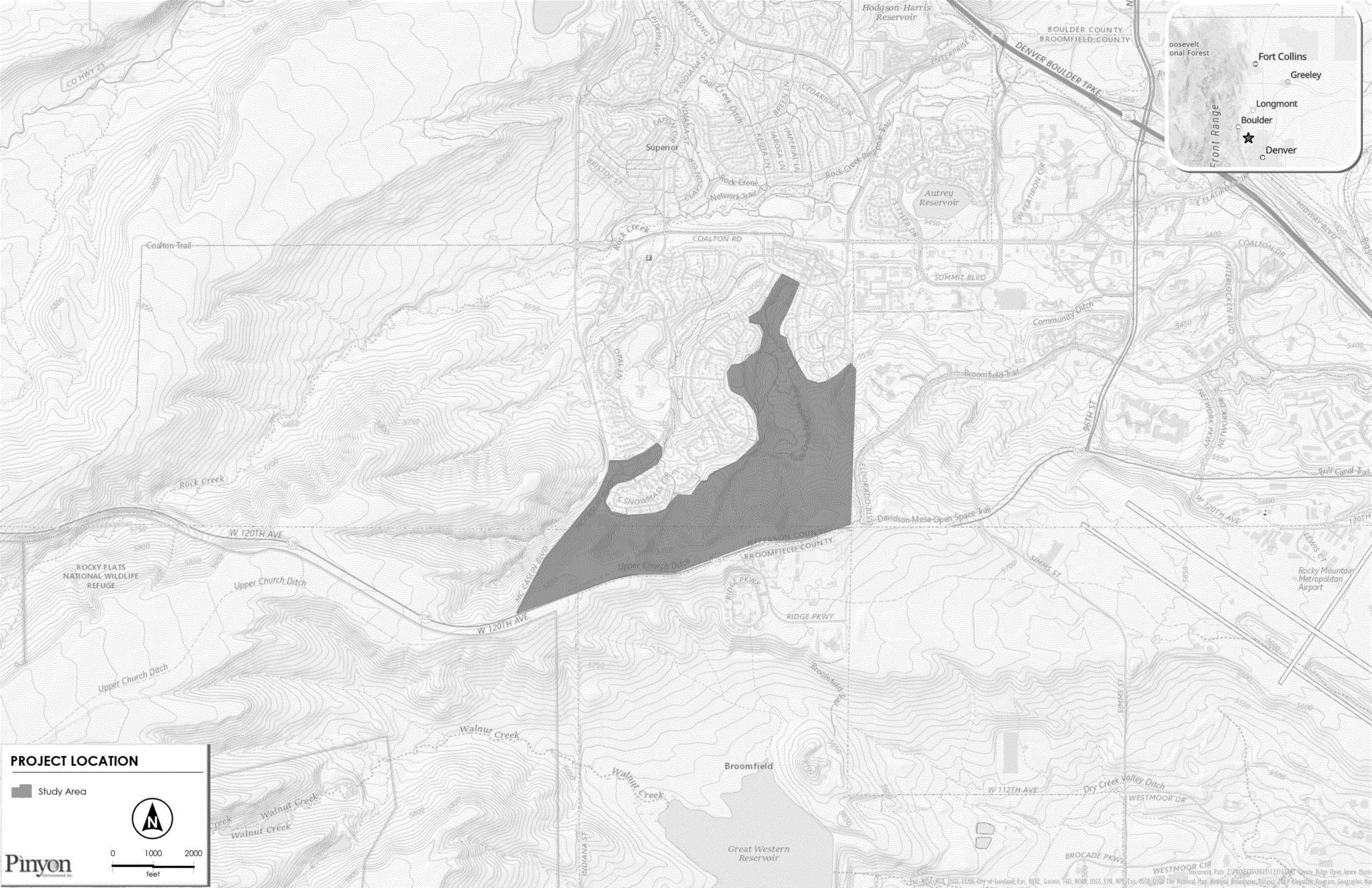
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PROJECT LOCATION

Study Area

N

0 1000 2000

feet

Pinyon Environmental, Inc.

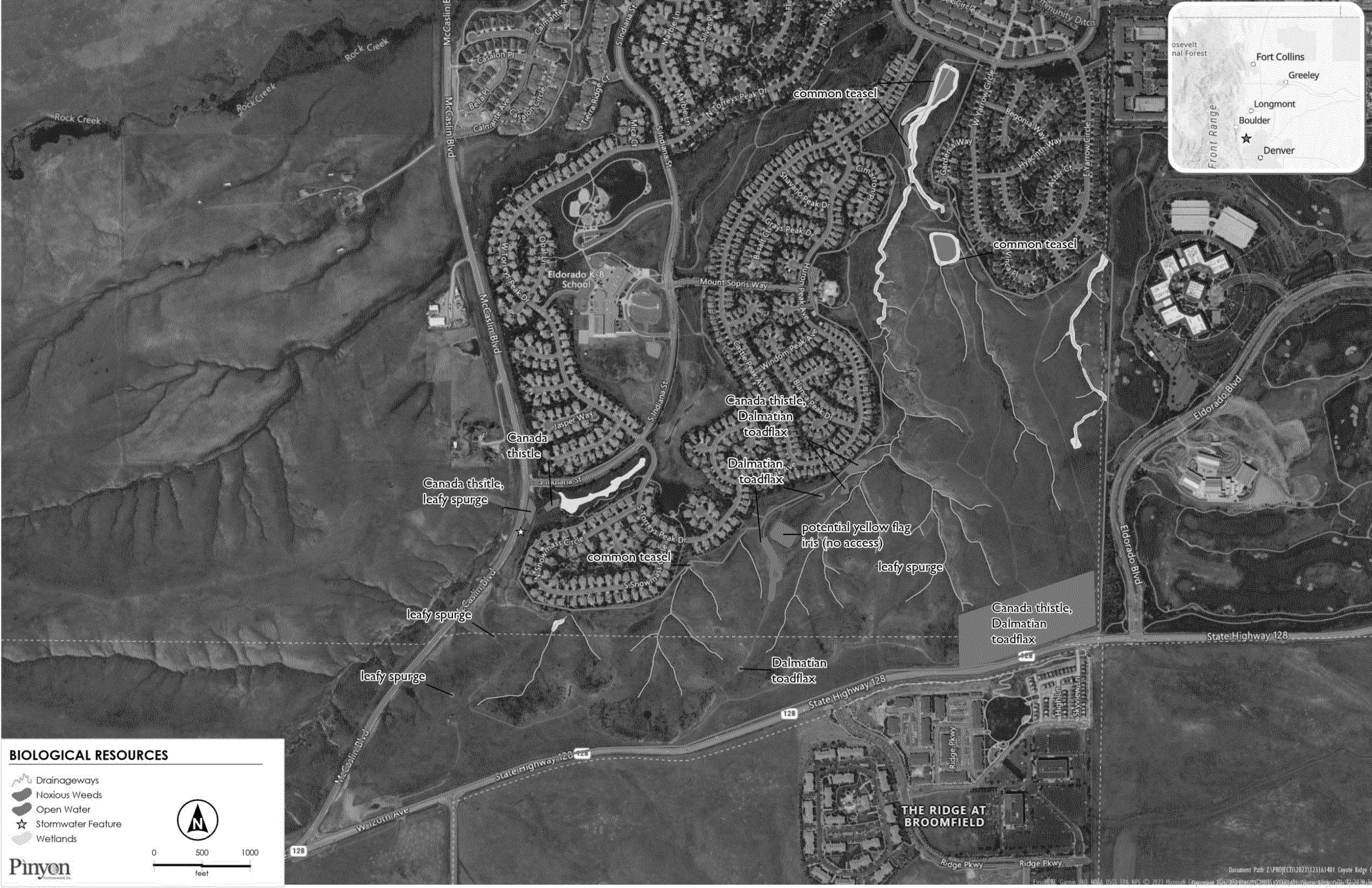

common teasel
common teasel
Canada thistle, Dalmatian toadflax
Canada thistle
Dalmatian toadflax
Canada thsitle, leafy spurge
potential yellow flag iris (no access)
common teasel
leafy spurge
Canada thistle, Dalmatian toadflax
leafy spurge
Dalmatian toadflax
leafy spurge
Eldorado K-8 School
Mount Sopris Way
McCaslin Blvd
Rock Creek
Sindiana St
Maple Ln
N Torreys Peak Dr
Shavano Peak Dr
Grays Peak Dr
Huron Peak Ave
Windom Peak Ave
Castle Peak Ave
Blanca Peak Dr
Jasper Way
N Snowmass Circle
S Snowmass Circle
Storm King Peak Dr
Cimarron Dr
W Yarrow Circle
E Yarrow Circle
Gardenia Way
Hyacinth Way
Begonia Way
Aster Ct
Mica Pl
Immunity Ditch
Eldorado Blvd
State Highway 128
W 120th Ave
Ridge Pkwy
THE RIDGE AT BROOMFIELD
Fort Collins
Greeley
Longmont
Boulder
Denver
Front Range
BIOLOGICAL RESOURCES
Drainageways
Noxious Weeds
Open Water
Stormwater Feature
Wetlands
0
500
1000
feet
Pinyon



Photo 1. The northern tip of the study area facing an open water pond surrounded by a potential wetland. Photo facing south.



Photo 2. The northeastern portion of the study area. Photo facing south.



Photo 3. The central portion of the study area, showing one of the many social trails across the site. Photo facing north.



Photo 4. The central-western portion of the study area. Photo facing south.



Photo 5. The southeastern portion of the study area. Photo facing west.



Photo 6. The southwestern corner of the study area. Photo facing east.



Photo 7. An example of drainageways located throughout the property. Photo taken in the central portion of the property facing north.



Photo 8. One potential wetland located in the northwestern tip of the study area. Wetland is dominated by cattail (*Typha* sp.). Photo facing west.



Photo 9. An example of Dalmatian toadflax (*Linaria dalmatica*: List B) found within the study area. Photo taken in the southeastern portion of the study area.



Photo 10. Fenced-off water treatment area containing potential yellow flag iris (*Iris pseudacorus*: List A). Pinyon did not have access to this area to confirm presence of the species.

Technical Memorandum

Date:	August 1, 2023
To:	Dominique Raymond, Superbloom
From:	Jennifer Hale, Erin Tessen, and Kara Wright, Pinyon Environmental
Subject:	Sustainability Recommendations- Coyote Ridge Open Space Master Plan

Superbloom has been tasked with creating a Master Plan for the Coyote Ridge Open Space in the Town of Superior, Colorado. Pinyon Environmental performed a baseline biological survey for the space, the results of which, combined with the evaluation of how the project can support published sustainability goals of the Town of Superior, have informed Pinyon's assessment of opportunities and constraints that may impact design strategies in later phases. The following recommendations are made with the intention of maximizing the long-term sustainability and resilience of the Coyote Ridge Open Space.

1: Mitigate fire risk by removing, controlling, or modifying fuel sources. Fuel sources identified on-site include shrubs, trees, and combustible fence lines.

Considerations should be made regarding the reduction of "ladder fuels" which allow fires to move vertically from ground surfaces to treetops and structures. Ladder fuels present on the site include shrubs and trees. Those along property fence lines present an especially high fire risk. Ladder fuel management strategies involve removal, trimming, and pruning.

Combustible fence lines are those constructed from combustible wood or wood-plastic composites, such as those present on the site. Removal of existing fence lines within the open space or along borders (excluding residential property lines) could support the reduction in fire fuels as well as promote wildlife corridor enhancements. For residential property lines, consider strategies to reduce combustible and ladder fuels. This could involve avoidance of mulching and removal of shrubs and trees.

2: Enhance and support the long-term health of existing natural resources for the enjoyment of the community. Existing natural resources identified on the site include diverse grasses and wildflowers, various species of songbirds, and natural wetlands.

The continued control of noxious weeds, revegetation of social trails, and containment of human activity to designated trails will protect the existing diversity of natural species and help control site erosion.

Noxious weeds pose a threat to native plant species and the overall plant diversity on the site. There are a variety of control measures for noxious weeds including herbicides, mechanical, cultural, and biological controls. Control measures vary for different noxious weed species. Containment and/or eradication of these species will promote native biodiversity as well as reduce potential fuels of noxious weed monocultures.

Social trails and erosion points should be closed off to potential human disturbances and revegetated. Seed mixes should include a mix of native cool and warm season annual and perennial grasses to support resilience and include native wildflowers to support native pollinators and other wildlife species. In some cases, soil amendments and decompaction of the soil may be necessary.

Selective removal and/or control of dominant species (i.e., Cattail species, *Typha spp.*) in wetlands can create more open water habitats and encourage natural plant diversification. Seeding with native wetland and riparian species may help increase diversity and wildlife value in wetland areas as well as suppress the dominance of cattails.

Overall, containing human activities to designated trail systems should be a priority as it will help reduce the spread of noxious weeds, reduce soil compaction, mitigate erosion, and promote native plant vegetation. The design team should consider containment tactics that avoid the use of mowing, mulching, and fence lines for the reasons explained above.

3: Prepare for the possible translocation of prairie dogs.

Pinyon understands the Town of Superior has several long-term goals for this site that will require a balanced approach in order to achieve. Specifically, the potential for prairie dog translocation to Coyote Ridge, per the town's Prairie Dog Management Plan, may conflict with project goals to protect or enhance the biodiversity of the open space habitat.

Efforts should be made in partnership with The Prairie Dog Coalition to select potential locations for translocation and create a contingency plan for adapting current site plans to consider the cascading effects of species introduction and mitigate risks to project goals should translocation become necessary. In Pinyon's experience, prairie dog colonies are often contained by slopes or hillsides, such as those in the southwest corner of Coyote Ridge. Additionally, the introduction of prairie dogs may lead to an increased presence of rattlesnakes, as they are known to inhabit prairie dog holes and natural predators such as raptors and coyotes.

4: Plan for long-term maintenance.

Although measures can be taken to mitigate the risk of fire and drought, both phenomena are natural functions of the prairie landscape. In addition to designing for resilience and improving the adaptive capacity of the natural landscape through pro-active management strategies, reactive recovery plans should be developed to address restoration efforts after fire, drought, and human disturbance events.

Priority should also be given to long-term management strategies that promote ecosystem health by reducing or eliminating the use of chemical controls (i.e., fertilizers, pesticides, and herbicides) and promoting more natural methods (i.e., compost, mechanical removal, etc.).

5: Create a Sustainable Materials Management Plan.

Before the planned removal of materials from the site, efforts should be made to identify opportunities for direct reuse or recycling in the community.

Material selections for the project should prioritize those with recycled content, sourced locally, and from suppliers or manufacturers with sustainability commitments or third-party certifications from organizations like Forest Stewardship Council (FSC), Green Seal, EcoLogo, Underwriters Laboratory, National Biosolids Partnership (NBP), Concrete Sustainability Council (CSC), etc.

6: Design for accessibility and increased mobility.

Soft trails should be designed to accommodate all modes of passive use and levels of accessibility according to the Town's Open Space Management Plan. Accommodating for the safe, comfortable, and simultaneous use of designated paths by both walkers/hikers and mountain bikers will be key in containing human traffic to designated trails and mitigating the use of social trails. Furthermore, trails and resting locations should be

designed to ensure that visitors of all abilities have equitable access to the space's amenities including views and ecological points of interest.

Access points in the form of trailheads and parking lots should consider and/or exceed the Town's mobility/transportation plans by considering the installation of EV charging stations, solar canopies, bus/shuttle stops, and bicycle repair stations. Additional efforts should be made to understand the potential development scenarios of neighboring properties and plan for their connectivity to the space.

7: Activate community stewardship and story-telling.

Pinyon recommends utilizing community engagement and partnerships with local organizations to understand the historical context and cultural importance of Coyote Ridge. These findings, combined with the specific needs and importance of grassland prairie ecosystems may be expressed in educational elements throughout the site and incorporated into a site-specific Sustainability Commitment that aligns with the goals of Town's Open Space Master Plan.

This activity may also serve as a gateway to develop permanent partnerships with cultural experts and underserved communities that advance community stewardship and story-telling programs like open space maintenance training, docent-led hikes, volunteer work days, and school field trips.

8: Reduce the operational impact of facilities.

It is our understanding that the design team may be considering built structures and facilities in the form of parking lots, shade structures, water stations and/or restrooms to enhance community amenities. Depending on the final design, several strategies could be used to reduce operational impacts, such as:

- Use of onsite solar generation to meet electrical and lighting needs.
- Placement and selection of lighting to reduce light pollution to nearby residences and wildlife habitats.
- Integration of grey water systems or composting toilets.
- Use of permeable surface materials to promote healthy runoff.
- Use of reflective surface materials to reduce heat island effects.

9: Mitigate construction impacts

Superbloom and/or its contractors should consider a construction management plan to address temporary inconveniences associated with construction. Potential impacts to the community and wildlife include noise, safety/wayfinding, access/mobility, and lighting. Efforts should be made to engage the community in the creation of this plan and create a feedback mechanism for continued monitoring of the community's satisfaction with construction management on the site.

To align with the open space's goal to preserve natural habitat, built structures and facilities (parking lots, shade structures, etc.) should avoid placement on currently undeveloped land where possible. Furthermore, currently developed land should be restored to natural habitat where possible.

10: Enhance public health and safety

Beyond the health and wellness benefits offered by outdoor recreation, Superbloom may take additional steps to enhance public health and safety on the site by considering and preparing for site-specific health and safety risks. Pinyon makes the following risk-specific recommendations:

- Weather: place structures throughout the trail system that encourage rest and offer shelter
- Injury or medical emergency: consider emergency call boxes and plan access points for emergency vehicles and first responders.

- Wildlife encounters: utilize signage to contain human activity on designated trails and educate visitors on proper interactions with wildlife.
- Basic needs: consider installing restrooms and water fountains usable by visitors and pets.

ITEM NO. 3f

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: **Consideration of an Ordinance of the Board of Trustees of the Town of Superior Extending a Rebate of Building Permit Fees and Town Use Taxes Paid for Residential Properties Impacted by the 2021 Marshall Fire**

MEETING DATE: **January 22, 2024**

PRESENTED BY: **Matt Magley, Town Manager**

PRESENTED FOR: **Action**

BACKGROUND:
Attached is an ordinance for consideration extending the deadline for the current rebate of building permit fees and use tax for those properties affected by the Marshall Fire and will be rebuilding. The extension will be for another twelve months with a new deadline of March 31, 2025. There are approximately 25% of the residential properties that were impacted by the Marshall Fire that have not submitted a building permit application. This extension will provide any original property owner additional time to submit their building permit application and receive the building permit fee and use tax rebate. The rebates include:

- Any Town use taxes paid with such building permit.
- Any building permit fees paid with such building permit, after deducting any amounts paid by the Town to third-party consultants for their services related to issuance of the building permit.

To date the Town has issued over $2.9 million in rebates to residential property owners that were impacted by the fire. The rebates are intended to help lower the costs to rebuild and to rebuild as soon as possible.

Staff is recommending that the ordinance be approved at the first reading so that it is effective prior to the current deadline date.

BUDGET IMPLICATIONS:
The extension will have no budget impacts because the Town did not project or include new building revenue from these properties in the budget, except for the fees retained to pay for the costs of third-party inspections.

MOTION:
Move to approve an ordinance of the Board of Trustees of the Town of Superior extending a rebate of building permit fees and Town use taxes paid for residential properties impacted by the 2021 Marshall Fire.

ATTACHMENTS:
- Ordinance

TOWN OF SUPERIOR
ORDINANCE NO. O-3
SERIES 2024

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR EXTENDING A REBATE OF BUILDING PERMIT FEES AND TOWN USE TAXES PAID FOR RESIDENTIAL PROPERTIES IMPACTED BY THE 2021 MARSHALL FIRE

WHEREAS, on February 28, 2022, the Board of Trustees adopted Ordinance No. O-1, Series 2022 ("Rebate Ordinance"), authorizing a rebate of building permit fees and Town use taxes paid for residential properties impacted by the 2021 Marshall Fire;

WHEREAS, the Rebate Ordinance provided that the Town shall rebate certain fees and taxes for a period of 730 days from the Rebate Ordinance's effective date of March 29, 2022;

WHEREAS, the rebates provided for in the Rebate Ordinance are set to expire on March 29, 2024;

WHEREAS, efforts to rebuild residential properties impacted by the Marshall Fire are still ongoing;

WHEREAS, the Board of Trustees desires to extend the rebate period for impacted properties as defined in the Rebate Ordinance until March 31, 2025; and

WHEREAS, this Ordinance is necessary to assist those residents impacted by the 2021 Marshall Fire with rebuilding efforts.

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Section 2 of Ordinance No. O-1, Series 2022 is hereby amended to read as follows:

Rebates. The Town shall rebate the following fees and taxes to the property owner(s) of any Impacted Properties until March 31, 2025, with such rebate to be made within 30 days of payment of such fees and taxes:

a. Any Town use taxes paid with such building permit; and

b. Any building permit fees paid with such building permit, after deducting any amounts paid by the Town to

third-party consultants for their services related to issuance of the building permit.

Section 2. All other Sections of Ordinance O-1, Series 2022 shall remain in full force and effect and shall apply to this Ordinance.

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

Section 4. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 22nd day of January, 2024.

_____
Mark Lacis, Mayor

ATTEST:

_____
Lydia Yecke, Town Clerk

ITEM NO. 3g

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

ITEM NAME:	**Adoption of a Resolution Approving the Colorado Department of Transportation Intergovernmental Agreement for the Rock Creek Parkway Bridge Rehabilitation Project**
MEETING DATE:	**January 22, 2024**
PRESENTED BY:	**Christine Katz, Civil Engineer**
PRESENTED FOR:	**Action**

BACKGROUND:

The Town owns and maintains the pedestrian bridge under Rock Creek Parkway near McCaslin Boulevard. This bridge must be inspected annually by the Colorado Department of Transportation (CDOT) as part of their statewide bridge inspections. This bridge was rated as poor per the last inspection with a target year for repair of 2024/2025.

Based on the latest inspection and poor rating, Town staff pursued the CDOT Off-System Bridge Grant and was awarded this grant on December 8, 2023. To finalize this grant and continue moving forward with the grant funding the Town must finalize this Intergovernmental Agreement (IGA) with CDOT.

This IGA will become effective on January 4, 2024 and expire on January 3, 2034 following signatures and approvals by all parties.

The Town is currently working on the design plans for this bridge rehabilitation project with work scheduled to start and be completed in 2024.

Parties: Colorado Department of Transportation and Superior

Term: The term of the Agreement shall be from the Effective Date of January 4, 2024 and expire on January 3, 2034 following signatures and approvals by all parties.

FINANCIAL IMPLICATIONS:

CDOT will pay the Town a total maximum amount of $1,076,565, based on a total project cost of $1,345,706 and the local agency 20% match of $269,141.

RECOMMENDED ACTION:
Staff recommends approval of the Colorado Department of Transportation Intergovernmental Agreement for the Rock Creek Bridge Rehabilitation Project

MOTION:
Move to Adopt a Resolution Approving the Colorado Department of Transportation Intergovernmental Agreement the Rock Creek Bridge Rehabilitation Project

ATTACHMENTS:

- Resolution
- CDOT Rock Creek Bridge Rehabilitation IGA

TOWN OF SUPERIOR
RESOLUTION NO. R-6
SERIES 2024

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION FOR THE ROCK CREEK PARKWAY BRIDGE REHABILITATION PROJECT

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The Board of Trustees hereby approves the Intergovernmental Agreement with the Colorado Department of Transportation for the Rock Creek Parkway Bridge Rehabilitation Project in substantially the same form as attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Intergovernmental Agreement on behalf of the Town.

ADOPTED this 22nd day of January, 2024.

_____
Mark Lacis, Mayor

ATTEST:

_____
Lydia Yecke, Town Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT
Signature and Cover Page

State Agency Department of Transportation			**Agreement Routing Number** 24-HA4-XC-00011
Local Agency TOWN OF SUPERIOR			**Agreement Effective Date** The later of the effective date or January 04, 2024
Agreement Description Rock Creek Parkway Bridge Rehab			**Agreement Expiration Date** January 03, 2034
Project # BRO M258-013 (26217)	**Region #** 4	**Contract Writer** TCH	**Agreement Maximum Amount** $1,345,706.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

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

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

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Department of Transportation

Effective Date: _____

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1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase ("Phase Performance Period(s)"). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e**., or the expiration of "Special Funding" if applicable, whichever is sooner. The State's obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties' respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on January 03, 2034 as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

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

i. Method and Content

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

ii. Obligations and Rights

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

iii. Payments

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

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

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

A. Federal Authority

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

Pursuant to Title VI of the Social Security Act, Section 602 of the "Coronavirus State and Local Fiscal Recovery Funds", a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

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

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT's Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

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

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

C. "**ARPA**" means American Rescue Plan Act, funded by the US Department of the Treasury ("USDT"). See "SLFRF" below.

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

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

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

G. "**Chief Procurement Officer**" means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.

H. "**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.

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

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

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

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

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

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

i. **Exhibit A**, Scope of Work.
ii. **Exhibit B**, Sample Option Letter.
iii. **Exhibit C**, Funding Provisions
iv. **Exhibit D**, Local Agency Resolution
v. **Exhibit E**, Local Agency Contract Administration Checklist
vi. **Exhibit F**, Certification for Federal-Aid Contracts
vii. **Exhibit G**, Disadvantaged Business Enterprise
viii. **Exhibit H**, Local Agency Procedures for Consultant Services
ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
x. **Exhibit J**, Additional Federal Requirements
xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance")
xiv. **Exhibit N**, Federal Treasury Provisions
xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
xvii. **Exhibit Q**, SLFRF Reporting Modification Form
xviii. **Exhibit R**, Applicable Federal Awards
xix. **Exhibit S**, PII Certification
xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source

O. "**Expiration Date**" means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.

P. "**Extension Term**" means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.

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

R. "**Federal Awarding Agency**" means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.

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

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

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

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

W. "**Local Funds**" means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.

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

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

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

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

BB. "**PCI**" means payment card information including any data related to credit card holders' names, credit card numbers, or the other credit card information as may be protected by state or federal law.

CC. "**PHI**" means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(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.

DD. "**PII**" means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. "PII" shall also mean "personal identifying information" as set forth at § 24-74-102, et. seq., C.R.S.

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

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

GG. "**SLFRF**" means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.

HH. "**Special Funding**" means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.

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

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

KK. "**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.

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

MM. "**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.

NN. "**Sub-Award**" means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.

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

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

QQ. "**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.

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

SS. "**USDT**" The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.

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

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

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

6. SCOPE OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B.** The State's unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **§7.E**

A. Local Agency Commitments

i. Design

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

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

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

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

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

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

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

g. Ensure the Plans are accurate and complete.

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

ii. Local Agency Work

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

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

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

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

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

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

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

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

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

(a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

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

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

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

iii. Construction

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

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

b. Local Agency shall be responsible for the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

2) Relocation activities, if applicable (3109);

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

v. Utilities

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

vi. Railroads

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

a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.

b. Obtain the railroad's detailed estimate of the cost of the Work.

c. Establish future maintenance responsibilities for the proposed installation.

d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.

e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

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

viii. Maintenance Obligations

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

ix. Monitoring Obligations

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

B. State's Commitments

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

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

7. PAYMENTS

A. Maximum Amount

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

B. Payment Procedures

i. Invoices and Payment

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

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

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

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

e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

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

iii. Payment Disputes

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

iv. Available Funds-Contingency-Termination

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

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

v. Erroneous Payments

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

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

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

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and **§7**. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

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

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

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

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

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

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

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

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

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

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

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

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

i. Local Agency Performing the Work

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

ii. Local Agency-Checks or Draws

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

iii. State-Administrative Services

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

iv. Local Agency-Invoices

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

v. Invoicing Within 60 Days

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

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

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

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

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

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to **§19** or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

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

C. Performance and Final Status

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

D. Violations Reporting

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

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

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

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

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

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

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

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

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

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

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for 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. Local Agency 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 attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** 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.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

12. INSURANCE

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

A. Local Agency Insurance

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

B. Subcontractor Requirements

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

i. Workers' Compensation

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

ii. General Liability

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

a. $1,000,000 each occurrence;

b. $1,000,000 general aggregate;

c. $1,000,000 products and completed operations aggregate; and

d. $50,000 any 1 fire.

iii. Automobile Liability

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

iv. Protected Information

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

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

b. $2,000,000 general aggregate.

v. Professional Liability Insurance

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

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

b. $1,000,000 general aggregate.

vi. Crime Insurance

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

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

b. $1,000,000 general aggregate.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protect consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

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

b. $2,000,000 general aggregate.

C. Additional Insured

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

D. Primacy of Coverage

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

E. Cancellation

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

F. Subrogation Waiver

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

G. Certificates

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

13. BREACH

A. Defined

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

B. Notice and Cure Period

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

14. REMEDIES

A. State's Remedies

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

i. Termination for Breach

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

a. Obligations and Rights

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

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

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

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

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

B. Local Agency's Remedies

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

15. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

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

C. Questions of Fact

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

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered **(i)** by hand with receipt required, **(ii)** by certified or registered mail to such Party's principal representative at the address set forth below

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

For the State

Colorado Department of Transportation (CDOT)
Gary Stimson, EiT - I
CDOT Region 4
10601 10th Street
Greeley, CO 80634
970-502-1270
gary.stimson@state.co.us

For the Local Agency

Town of Superior
Christine Katz, Civil Engineer, PE
124 East Coal Creek Drive
Superior, CO 80027
303-499-3675 X 191
christinek@superiorcolorado.gov

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

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

ii. Patents

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

iii. Assignments and Assistance

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

B. Exclusive Property of the State

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

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency 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 Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (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.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: 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.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is $100,000 or greater, either on the Effective Date or at any time thereafter, this **§19** shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §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"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

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

C. Binding Effect

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

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Digital Signatures

If any signatory signs this agreement 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.

H. Entire Understanding

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

I. Jurisdiction and Venue

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

J. Modification

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

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

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

L. Order of Precedence

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

i. The provisions of the other sections of the main body of this Agreement.
ii. **Exhibit N**, Federal Treasury Provisions.
iii. **Exhibit F**, Certification for Federal-Aid Contracts.
iv. **Exhibit G**, Disadvantaged Business Enterprise.
v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
vi. **Exhibit J**, Additional Federal Requirements.
vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance").
x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
xi. **Exhibit R**. Applicable Federal Awards.
xii Colorado Special Provisions in the main body of this Agreement.
xiii. **Exhibit A**, Scope of Work.
xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
xv. **Exhibit B**, Sample Option Letter.
xvi. **Exhibit C**, Funding Provisions.
xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
xix. **Exhibit D**, Local Agency Resolution.
xx. **Exhibit E**, Local Agency Contract Administration Checklist.
xxi. **Exhibit S**, PII Certification.
xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
xxiii. Other exhibits in descending order of their attachment.

M. Severability

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

N. Survival of Certain Agreement Terms

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

O. Third Party Beneficiaries

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

P. Waiver

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

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

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

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

i. Local Agency shall comply with and the Work Product provided under this Agreement 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. Local Agency 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. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.

iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency'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 OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

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

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

These Special Provisions apply to all contracts. Contractor refers to Local Agency and Contract refers to Agreement.

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(19), 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., applicable Local Agency law, rule or regulation.

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

D. INDEPENDENT CONTRACTOR

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

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

22. FEDERAL REQUIREMENTS

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

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

EXHIBIT A

SCOPE OF WORK

Name of Project: Rock Creek Parkway Bridge Rehab
Project Number: BRO M258-013
SubAccount #: 26217

The Colorado Department of Transportation ("CDOT") will oversee the Town of Superior when the Town completes the Rock Creek Parkway Bridge Rehabilitation project (hereinafter referred to as "this work"). CDOT and the Town of Superior believes it will be beneficial to perform this work because the bridge is in "poor" condition per the most recent CDOT Routine Inspection completed in 2023 and needs major rehabilitation to protect public safety. The Town has completed the necessary preliminary studies to implement this proposal. All work will conform to the MUTCD.

This work will consist of bridge repair and bridge reinforcement. The road, sidewalk, median, and fill material covering the box culvert will be removed for topside access and to relieve bridge loading while work is being performed. The bridge repair consists of concrete patching and additional reinforcement installation on the top and bottom surfaces where necessary. To reinforce the bridge, a new bridge mat will be added and a support beam will be installed with support columns. The columns will be supported by piles. The road, median, and fill material will be installed back in place over the bridge once the repair and reinforcement work is complete. Any work not in this summary will be included in the drawings and specifications. The design phase of this work is anticipated to be completed during federal fiscal year 2024. The design phase will identify more exact requirements, qualities, and attributes for this work (hereinafter referred to as "the exact work"). The exact work shall be used to complete the construction phase of the project. The construction phase of the project is estimated to begin in federal fiscal year 2024 and shall finish as soon as reasonably possible.

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

If ARPA funds are used all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT byMarch 31, 2027.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

EXHIBIT B

SAMPLE IGA OPTION LETTER

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

Vendor Name:

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

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

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

Option to unilaterally extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify OMB Guidance.

Option A

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

Option B

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

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

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

STATE OF COLORADO
Jared S. Polis
Department of Transportation

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

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

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

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

By: _____
Colorado Department of Transportation

Date:_____

EXHIBIT C - FUNDING PROVISIONS

City of Superior - BRO M258-013 (26217)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be $1,345,706.00, which is to be funded as follows:

1. FUNDING		
a.	Federal Funds (80% of BRO Award)	$1,076,565.00
b.	Local Agency Funds (20% of BRO Award)	$269,141.00
	TOTAL FUNDS ALL SOURCES	**$1,345,706.00**
2. OMB UNIFORM GUIDANCE		
a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Local Agency Unique Entity Identifier	E79XSHDEQGL8
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	$0.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a.	Federal Funds Budgeted	$1,076,565.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	$0.00

TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	**80%**	**$1,076,565.00**
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY	**20%**	**$269,141.00**
TOTAL PROJECT ESTIMATED FUNDING	**100%**	**$1,345,706.00**

4. FOR CDOT ENCUMBRANCE PURPOSES		
a.	Total Encumbrance Amount (Federal funds + Local Agency funds)	$1,345,706.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	$0.00
	NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	**$1,345,706.00**

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

WBS Element 26217.10.30	Performance Period Start*/End Date TBD-TBD	Design 3020	$0.00
WBS Element 26217.20.10	Performance Period Start*/End Date TBD-TBD	Const. 3301	$0.00

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

B. Funding Ratios

The funding ratio for the federal funds for this Work is 80% federal funds to 20% Local Agency funds, and this ratio applies only to the $1,345,706.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds $1,345,706.00, and

additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than $1,345,706.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in **A1**. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be $1,076,565.00. For CDOT accounting purposes, the federal funds of $1,076,565.00 and the Local Agency funds of $269,141.00 will be encumbered for a total encumbrance of $1,345,706.00. The total budget of this project is $1,345,706.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

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

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

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

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

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

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

Exhibit E-

Local Agency Contract Administration Checklist

COLORADO DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

Project No.	STIP No.	Project Code	Region
BRO M258-013	**SR46601**	**26217**	**4**

Project Location	Date
Rock Creek Parkway	**12/18/2023**

Project Description
Rock Creek Parkway Bridge Rehab

Local Agency	Local Agency Project Manager
Town of Superior	**Christine Katz**
CDOT Resident Engineer	CDOT Project Manager
Bryce Reeves	**Gary Stimson**

INSTRUCTIONS:
This checklist shall be used to establish the contractual administrative responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency Agreement. Section numbers (NO.) correspond to the applicable chapters of the *CDOT Local Agency Desk Reference (Local Agency Manual)*. LAWR numbers correspond to the applicable flowchart in the Local Agency Web Resource.

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

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

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

Note:
Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	RESPONSIBLE PARTY CDOT
		TIP / STIP AND LONG-RANGE PLANS		
	2.1	Review Project to ensure it is consistent with Statewide Plan and amendments thereto		x
		FEDERAL FUNDING OBLIGATION AND AUTHORIZATION		
	4.1	Authorize funding by phases (Requires FHWA concurrence/involvement if Federal-aid Highway funded project.). *Please write in "NA", if Not Applicable.*		x
		PROJECT DEVELOPMENT		
1	5.1	Prepare Design Data - CDOT Form 463	x	
	5.2	Determine Delivery Method	x	#
	5.3	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		x
2	5.4	Conduct Consultant Selection/Execute Consultant Agreement • Project Development • Construction Contract Administration (including Fabrication Inspection Services)	 x x	 # #
3,3A	5.5	Conduct Design Scoping Review Meeting	x	#
3,6	5.6	Conduct Public Involvement	x	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
3	5.7	Conduct Field Inspection Review (FIR)	x	#
4	5.8	Conduct Environmental Processes (may require FHWA concurrence/involvement)	x	#
5	5.9	Acquire Right-of-Way (may require FHWA concurrence/involvement)	x	#
3	5.10	Obtain Utility and Railroad Agreements	x	#
3	5.11	Conduct Final Office Review (FOR)	x	#
3A	5.12	Justify Force Account Work by the Local Agency	x	#
3B	5.13	Justify Proprietary, Sole Source, or Local Agency Furnished Items	x	#
3	5.14	Document Design Exceptions - CDOT Form 464	x	#
	5.15	Seek Permission for use of Guaranty and Warranty Clauses	x	#
3	5.18	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	x	#
	5.19	Comply with Requirements for Off-and On-System Bridges & Other Structural Work	x	#
	5.20	Update Approvals on PS&E Package if Project Schedule Delayed	x	#
	5.21	Ensure Authorization of Funds for Construction		x
	5.22	Use Electronic Signatures	x	#
	5.23	File Project Development Records/Documentation in ProjectWise		x
	PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
3	6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region Civil Rights Office).		x
	6.2	Determine Applicability of Davis-Bacon Act This project ☐ is ■ is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) **Bryce Reeves** **12/18/2023** CDOT Resident Engineer Date		x
	6.3	Set On-the-Job Training Goals (CDOT Region Civil Rights Office) *"NA", if Not Applicable*		x
	6.4	Enforce Prompt Payment Requirements	x	#
	6.5	Use Electronic Tracking and Submission Systems – B2GNow ■ LCPtracker ■	x	#
3	6.6	Prepare/submit Title VI Plan and Incorporate Title VI Assurances	x	#
6,7		Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		x
	ADVERTISE, BID AND AWARD of CONSTRUCTION PROJECTS Federal Project (use 7.1 series in Chapter 7) ■ Non-Federal Project (Use 7.2 series in Chapter 7) ☐			
6,7		Obtain Approval for Advertisement Period of Less Than Three Weeks;		x
7		Advertise for Bids	x	
7		Concurrence to Advertise	x	#
7		Distribute "Advertisement Set" of Plans and Specifications	x	
7		Review Worksite & Plan Details w/ Prospective Bidders While Project Is Under Ad	x	
7		Open Bids	x	
7		Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. (*Please write in "NA", if Not Applicable)*		x
		Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals. *"NA", if Not Applicable.*		x
		Submit required documentation for CDOT award concurrence	X	#
		Concurrence from CDOT to Award		x
		Approve Rejection of Low Bidder		x
7,8		Award Contract (federal)	X	#

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
8		Provide "Award" and "Record" Sets of Plans and Specifications (federal)	X	#
	CONSTRUCTION MANAGEMENT			
8	Intro	File Project Construction Records/Documentation in ProjectWise or as directed	x	#
8	8.1	Issue Notice to Proceed to the Contractor	x	#
8	8.2	Project Safety	x	
8	8.3	Conduct Conferences:		
		Pre-construction Conference (Appendix B) • Fabrication Inspection Notifications	X	#
		Pre-survey • Construction staking • Monumentation	X X	
		Partnering (Optional)	x	
		Structural Concrete Pre-Pour (Agenda is in *CDOT Construction Manual)*	x	#
		Concrete Pavement Pre-Paving (Agenda is in *CDOT Construction Manual)*	x	#
		HMA Pre-Paving (Agenda is in *CDOT Construction Manual)*	x	#
8	8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	x	
9	8.5	Supervise Construction		
		A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." **Christine Katz (PE.0057495)** — **303-499-3675 x19** Local Agency Professional Engineer or CDOT Resident Engineer — Phone number	x	
		Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	x	
		Construction inspection and documentation (including projects with structures)	x	
		Fabrication Inspection and documentation	x	
9	8.6	Review and Approve Shop Drawings	x	
9	8.7	Perform Traffic Control Inspections	x	#
9	8.8	Perform Construction Surveying	x	
9	8.9	Monument Right-of-Way	x	
9,9A	8.10	Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent) or use compliance software system. Provide the name and phone number of the person authorized for this task. **Christine Katz** — **303-499-3675 x191** Local Agency Representative — Phone number	x	
9	8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	x	
9B	8.12	Prepare and Authorize Change Orders	x	#
9B	8.13	Submit Change Order Package to CDOT	x	
9A	8.14	Prepare Local Agency Reimbursement Requests	x	
9	8.15	Monitor Project Financial Status	x	
9	8.16	Prepare and Submit Monthly Progress Reports	x	
9	8.17	Resolve Contractor Claims and Disputes	x	
	8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. **Bryce Reeves** — **970-350-2126** CDOT Resident Engineer — Phone number		x
9	8.19	Ongoing Oversight of DBE Participation	x	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
	MATERIALS			
9,9C	9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	x	
9,9C	9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	 x x	x
9C	9.3	Perform Project Acceptance Samples and Tests	x	
9C	9.4	Perform Laboratory Acceptance Tests	x	
9C	9.6	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	x x x x	
9C	9.6	Approve Sources of Materials	x	
9C	9.7	Independent Assurance Testing (IAT) Local Agency Procedures ☐ CDOT Procedures ▣ • Generate IAT schedule • Schedule and provide notification • Conduct IAT	 x x	x
9C	9.8	Approve mix designs • Concrete • Hot mix asphalt	 x x	 # #
9C	9.9	Check Final Materials Documentation	x	#
9C	9.10	Complete and Distribute Final Materials Documentation	x	#
	CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
9	10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	x	
8,9	10.2	Process CDOT Form 205 - Sublet Permit Application and CDOT Form 1425 – Supplier Application Approval Request. Review & sign completed forms, or review/approve in compliance software system, as applicable, & submit to Region Civil Rights Office.	x	#
9	10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	x	
9	10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	x	
9	10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. • Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements. • Complete CDOT Form 838 – OJT Trainee / Apprentice Record. • Complete CDOT Form 200 - OJT Training Questionnaire	 x x x	
9	10.6	Check Certified Payrolls (Contact the Region Civil Rights Office for training reqmts.)	x	#
9	10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	x	
	10.8	Contract Compliance and Project Site Reviews		x
	FINALS			
	11.1	Conduct Final Project Inspection & Final Inspection of Structures, if applicable		x
10	11.2	Write Final Project Acceptance Letter	x	
10	11.3	Advertise for Final Settlement	x	
11	11.4	Prepare and Distribute Final As-Constructed Plans	x	
11	11.5	Prepare EEO Certification and Collect EEO Forms	x	
11	11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	x	#

LA WK	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	x	
	11.8	Review CDOT Form 1419		x
	11.9	Submit CDOT Professional Services Closeout Report Form	x	
	11.10	Complete and Submit CDOT Form 1212 LA – Final Acceptance Report (by CDOT)		x
11	11.11	Process Final Payment	x	#
	11.12	Close out Local Project	x	
	11.13	Complete and Submit CDOT Form 950 - Project Closure		x
11	11.14	Retain Project Records	x	
11	11.15	Retain Final Version of Local Agency Contract Administration Checklist	x	

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

EXHIBIT F

CERTIFICATION FOR FEDERAL-AID CONTRACTS

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

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

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

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

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

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISES

SECTION 1. Policy

It is the policy of the Colorado Department of Transportation (CDOT) that Disadvantaged Business Enterprises (DBEs) shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Accordingly, CDOT's federally approved DBE Program Plan shall apply to this agreement.

SECTION 2. Subrecipient and Participant Obligation.

The Local Agency and its subrecipients agrees to ensure that DBEs certified through the Colorado Unified Certification Program have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement.

All participants on contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement shall take all necessary and reasonable steps in accordance with the CDOT's federally approved DBE Program Plan to ensure that DBEs have the maximum opportunity to compete for and perform contracts.

Local Agency subrecipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT and federally assisted contracts.

SECTION 3. DBE Program.

The Local Agency subrecipient shall be responsible for complying with CDOT's FHWA-approved DBE Program Plan.

Local Agency requirements can be found at:

https://www.codot.gov/business/civilrights

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

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

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

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

1. The contracting Local Agency shall document the need for obtaining professional services.

2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.

3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.

4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.

5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.

6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.

7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

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

a. Qualifications,

b. Approach to the Work,

c. Ability to furnish professional services.

d. Anticipated design concepts, and

e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

a. Abilities of their personnel,

b. Past performance,

c. Willingness to meet the time and budget requirement,

d. Location,

e. Current and projected work load,

f. Volume of previously awarded contracts, and

g. Involvement of minority consultants.

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

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

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

EXHIBIT I

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

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

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

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

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

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

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

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

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

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

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

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

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

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

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

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

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

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

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

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

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

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

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

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

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

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

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees 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 Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

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

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

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

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

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

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

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

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

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

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

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

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

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

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

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

Executive Order 11246

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

Copeland "Anti-Kickback" Act

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

Davis-Bacon Act

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

Contract Work Hours and Safety Standards Act

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

Clean Air Act

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

Energy Policy and Conservation Act

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

OMB Circulars

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

Hatch Act

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

Nondiscrimination

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

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

ADA

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

Uniform Relocation Assistance and Real Property Acquisition Policies Act

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

Drug-Free Workplace Act

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

Age Discrimination Act of 1975

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

23 C.F.R. Part 172

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

23 C.F.R Part 633

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

23 C.F.R. Part 635

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

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

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

Nondiscrimination Provisions:

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

i. Compliance with Regulations

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

ii. Nondiscrimination

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

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

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

iv. Information and Reports

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

v. Sanctions for Noncompliance

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

Incorporation of Provisions §22

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

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SAMPLE

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

Assurances for Local Agencies

DOT Order No. 1050.2A

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

Statutory/Regulatory Authorities

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

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

General Assurances

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

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

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

Specific Assurances

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

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

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

    a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
    b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

    a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
    b. the period during which the Recipient retains ownership or possession of the property.

11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

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

_____

(***Name of Recipient***)

by_____

(***Signature of Authorized Official***)

DATED_____

APPENDIX A

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

1. **Compliance with Regulations**: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination**: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions**: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

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

(HABENDUM CLAUSE)

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

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

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

APPENDIX C

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

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

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

    1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

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

APPENDIX D

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

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

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

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

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

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

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

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

Award ***does not*** include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.15.1. Salary and bonus;

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

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

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

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

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

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

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

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

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

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

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

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

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

   4.2. In the preceding fiscal year, Contractor received:

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

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

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

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

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

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

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

7.1.1 Subrecipient DUNS Number;

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

7.1.3 Subrecipient Parent DUNS Number;

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

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

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

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

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

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

8. Exemptions.

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

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

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

8.4 There are no Transparency Act reporting requirements for Vendors.

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

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

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

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

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

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

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

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

Tool Version: v2.0 (081816)

EXHIBIT M

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

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

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

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

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

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

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

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

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

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

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

1.8. "State" means the State of Colorado, acting by and through its departments, agencies and institutions ofhigher education.

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

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

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

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

3. **Procurement Standards.**

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

§§200.318 through 200.326 thereof.

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

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

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

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

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

Accountability Office.

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

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

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

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

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

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

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments

under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice inconspicuous places available to employees and applicants for employment.

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

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

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled,

terminated or suspendedin whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided bylaw.

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

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

U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is other wise entitled.

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

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

6.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Actas 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).

6.5 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." SAMExclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well asparties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.6 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, oran employee of a member of Congress in connection with obtaining any Federal contract, grant or any otheraward covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non- Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

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

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

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

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

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

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

Exhibit N
Federal Treasury Provisions

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 a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID (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.

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.

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 Exhibit P 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). For projects over $10 million:

8.1.3.8. 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.

8.1.3.8.1. 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.

8.1.3.8.2. Whether the project prioritizes local hires.

8.1.3.8.3. 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 Exhibit Q – 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 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 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 CRF 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 Exhibit E 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.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT 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 award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. 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.

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.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by 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.

      i. 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.

      ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

      iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

      iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

v. 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.

10. 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 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 Contractorsto 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 theTreasury, 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, aloan 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.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

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)

EXHIBIT Q

SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:				Agreement No:	
Project Title:				Project No:	
Project Duration:	To:			From:	
State Agency:	CDOT				

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement **(Add/Delete/Modify)**	**Project Number**	**Reporting Requirement**

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

_____ _____

Local Agency Date

_____ _____

CDOT Program Manager Date

EXHIBIT R

APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is not the amount of this grant agreement)	$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the "Local Agency"), hereby certify under the penalty of perjury that the Local Agency 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 Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓

ITEM NO. 3h

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: **Resolution - Approving Appointment to the Superior Youth Leadership Council (SYLC)**

MEETING DATE: **January 22, 2024**

PRESENTED BY: **Matt Magley, Town Manager**

PRESENTED FOR: **Action**

BACKGROUND:
Section 2-12-40 of the Superior Municipal Code addresses membership of Town Advisory Committees, including appointment of Advisory Committee members. There is currently a new vacancy on SYLC. Per SYLC appointment code, the applicant listed below is next in line based on application submission date. Additionally, this applicant has been an active participant in SYLC meetings and projects this term. Scheduled under this agenda item is the Board's consideration of whether to appoint the candidate. The Board has the option to appoint or to not appoint, and staff will reach out to the remaining pending applicants on the SYLC waitlist.

Superior Youth Leadership Council (SYLC) Candidate - 1 vacancy

- Lindsay Craig

ALTERNATIVES CONSIDERED:
Make no appointment and reach out to remaining applicants in order of application.

MOTION:
Move to approve the Resolution making the recommended appointment to the Superior Youth Leadership Council.

ATTACHMENTS:

- Resolution

TOWN OF SUPERIOR
RESOLUTION NO. R-10
SERIES 2024

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO APPOINTING MEMBERS TO THE SUPERIOR YOUTH LEADERSHIP COUNCIL

WHEREAS, on October 13, 2014, the Board of Trustees re-established the Youth Services Committee by Resolution No. R-53, Series 2014;

WHEREAS, on January 26, 2015, by Resolution No. R-6, Series 2015, the Board of Trustees renamed the Superior Youth Services Committee the Superior Youth Leadership Council; and

WHEREAS, the Board of Trustees wishes to make appointments to the Superior Youth Leadership Council pursuant to Article XII of Chapter 2 of the Superior Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The Board of Trustees hereby makes the following appointments to the Superior Youth Leadership Council:

Name	**Term expires**
Lindsay Craig	August 2025

ADOPTED this 22nd day of January, 2024.

_____
Mark Lacis, Mayor

ATTEST:

_____
Lydia Yecke, Town Clerk

ITEM NO. 4

INFORMATION FOR MEETING
OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: **Discussion on Electric Bicycles and Scooters on Shared Public Modality Routes**

MEETING DATE: **January 22, 2024**

PRESENTED BY: **Matt Magley, Town Manager**
Leslie Clark, PROS Director

PRESENTED FOR: **Discussion**

BACKGROUND:
Current Town of Superior Ordinance 8-3-20 outlines the use of electric bicycles and allows for use sidewalks, bicycles lanes and bicycle paths in the Town, provided that the use is not careless or imprudent. As the availability of electric bicycles and scooters has increased, user conflicts have been reported and observed between electric bicycles, scooters, walkers and other users of these shared modality routes.

The Town Board asked staff to conduct research into neighboring communities and the actions they have taken to mitigate user conflict or other safety concerns with the use of electric bicycles and scooters in and on public streets, sidewalks, pathways and trails. Staff reviewed available information from Boulder and Jefferson Counties, City of Boulder, Broomfield, Lafayette and Louisville, Colorado Park and Wildlife and US Forest Service. A summary of electric bicycle and electric scooter information is attached.

Classifying or defining different categories of electric bicycles and scooters is a common method to differentiate allowable use on streets, sidewalks, pathways and trails. Most municipalities and other organizations used maximum speed and throttle driven versus peddle-assisted propulsion as primary factors that impact safety and the potential of user conflicts. E-bikes, also known as electric bicycles, ebikes, powerbikes, pedelecs, or booster

bikes, are bicycles with an integrated electric motor that does not exceed 750 watts of power. Common classifications include:
Class 1: Low-speed pedal-assisted electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.
Class 2: Low-speed throttle-assisted electric bicycle equipped with a throttle-actuated motor, that ceases to provide assistance when the e-bike reaches 20 mph.
Class 3: Pedal-assisted electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 28 mph.

In addition, reviewing current allowable use of non-electric bicycles and scooters on streets, sidewalks, pathways and trails can help guide decision making for the use of electric bicycles and scooters. For example, many municipalities allow Class 1 and Class 2 e-bikes and scooters where non-electric versions are allowed. Pathways and trails are typically open to Class 1 and 2 if the physical conditions of these routes does not pose other safety or maintenance concerns. Use of Class 3 is typically restricted to streets.

STAFF RECCOMENDATION

- Follow the class definitions and guidelines set forth in neighboring communities as much as possible. This is helpful in educating the public and creating continuity across transportation routes that transect multiple jurisdictions.
- Allow Class 1 and Class 2 E-bikes and E-scooter on streets, sidewalks, pathways and trails where non-electric bikes or scooters are currently not restricted.
- Restrict the use of Class 3 E-bikes and E-scooters to streets.
- Implement a Town curtesy program to promote common guidelines for shared use of these routes.

The Open Space Advisory Committee (OSAC), and the Park and Recreation Advisory Committee (PARC), have joined forces to develop a trail courtesy campaign with messaging to promote safe shared use of our local transportation routes. The committees are closely reviewing the Boulder County, City of Boulder, Jefferson County and Boulder Valley School District courtesy campaigns to recommend content to the Town Board. They also looked into a campaign in Travers City, Michigan.

ATTACHEMENTS

- E-bike Information
- E-Scooter Information
- Trail Courtesy Campaign Update from PARC and OSAC

E-bike Definition & Classes

E-bikes, also known as electric bicycles, ebikes, powerbikes, pedelecs, or booster bikes, are bicycles with an integrated electric motor that does not exceed 750 watts of power.

Class 1: Low-speed pedal-assisted electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.

Class 2: Low-speed throttle-assisted electric bicycle equipped with a throttle-actuated motor, that ceases to provide assistance when the e-bike reaches 20 mph.

Class 3: Pedal-assisted electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 28 mph.

Path to Policy:

1. **Define**: all agree with above, which comes from the state
2. **Survey**: Broomfield, BoCo, and others surveyed residents
3. **Pilot**: BoCo and City of Boulder piloted their policy for a year before settling on it
4. **Legislate**: make a policy and stick with it. Adapt when technology shifts.

Neighboring Authorities:

Boulder County: Class 1 & 2 allowed with exceptions

- On Nov. 13, 2019, the Board of County Commissioners (BOCC) approved allowing class 1 and class 2 e-bikes on Boulder County trails on the plains where regular bikes are allowed, including regional trails and trails on open space parks, with certain exceptions. Those exceptions include anywhere e-bikes are not allowed due to underlying existing land restriction and three trails requested by the City of Boulder: The Boulder Canyon Trail (due to prohibition of motorized uses on a parcel owned by City of Boulder), Coalton Trail and Mayhoffer-Singletree Trail (because these two county trails lead to city-owned trails where e-bikes are not allowed, and there is no option to leave the trail).

City of Boulder OSMP: Class 1 & 2 only allowed on multi-use paths and roads (no open space trails)

- Current city regulations prohibit e-biking on open space trails but allow e-biking on multi-use paths that are managed by other city departments. *Boulder Revised Code (B.R.C) 7-5-25 No Electric Assisted Bicycles on Open Space* requires disposal to allow e-biking on OSMP-managed trails by transferring the trail to another city department. An amendment to the B.R.C. that would allow e-biking as a passive recreational use may provide flexibility and alternatives to disposal of Open Space.
- E-bikes can be ridden in city bike lanes, on city multi-use paths and on city sidewalks outside dismount zones. E-biking also is allowed on most Boulder County Parks & Open Space trails in the plains.

City of Louisville: Class 1 & 2 allowed everywhere (except where restrictions are posted)

- Class 1 and Class 2 electrical assisted bikes (e-bikes) are allowed on all streets and trails unless specifically prohibited with signs posted giving such notice. An e-bike is defined as an electrical assisted bicycle with two tandem wheels or two parallel wheels and one forward wheel with fully operable pedals, an electric motor not exceeding 750 watts of power and a top motor-powered speed of 20 miles per hour. At this time all streets and trails are accessible to e-bikes.

City of Broomfield: Class 1 & 2 are allowed; Class 3 not allowed

- Colorado House Bill 17-1151 was adopted by the state legislature in 2017 and defines Class 1 and Class 2 models of e-bikes as 'bicycles' instead of motorized vehicles. Electric-assisted bikes (e-bikes) are currently allowed on Broomfield trails, as long as they meet the definition as established for e-bikes, see definition below. E-bikes are held to the same rules and regulations as bicycles. Bicycles are allowed on all Broomfield trails. Broomfield does not allow motorized vehicles on trails.
- Definitions:
    - Class 1 electrical assisted bicycle means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.
    - Class 2 electrical assisted bicycle means an electrical assisted bicycle equipped with a motor that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour. (Class 3 e-bikes with a throttle that exceeds twenty miles per hour are not allowed)

City of Lafayette: No e-bikes on park or open space trails

- In Colorado, electric bicycles are regulated in the same way as traditional bicycles. You must follow the rules of the road. Here in Lafayette, e-bikes are allowed on all established roadways. It is prohibited to take your e-bike on an Open Space or park trail.

Jefferson County: Class 1 on natural surface; Class 1 & 2 on paved

- Local governments have the authority to authorize the use of e-bikes on bike or pedestrian paths. JCOS allows Class 1 e-bikes on natural surface trails and Class 1 and Class 2 e-bikes on paved trails within the parks.

USFW: Class 1 e-bikes at Rocky Flats; up to district manager

- If the refuge manager determines that the use of e-bikes (electric bicycles) is consistent with the refuge's statutory purpose -- and if the refuge manager determines the use of e-bikes to be a compatible use -- e-bikes may be used on any refuge roads and trails where traditional bicycle use is allowed.
- **Rocky Flats:** Ride your bike or class 1 e-Bike year-round along the 10 miles of trails through rolling terrain and hills on dirt or packed gravel trails.

CPW: class 1 & 2 bikes allowed on multi-use trails; class 3 allowed on roadways/bike lanes

- Class 1 and 2 e-bikes are allowed on roadways and designated bike lanes and on multi-use trails and other areas (e.g. campgrounds) that are open to non-motorized biking
- Class 3 e-bikes are only allowed on designated roadways and designated bike lanes
- In State Wildlife Area, e-bikes are allowed on designated roadways and within designated camping or parking areas where motorized vehicles area allowed

Recommendation:

- Class 1 & 2 e-bikes, as defined above, are allowed on all parks and open space multi-use trails that are concrete and crusher fine
- Class 3 allowed on roadways and bikeways (treated as vehicles as per the state)
- Pilot Class 1 e-bikes on natural surface trails

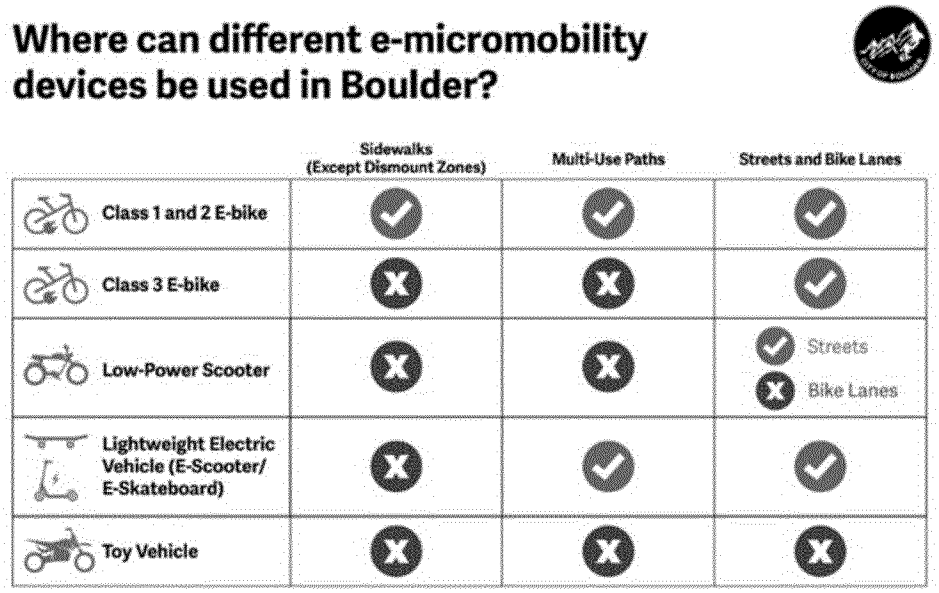
E-Scooter Policies

City of Boulder:

- Classifies all electric vehicles with “e-micromobility” nomenclature.

E-scooter Guide:

- Should be ridden in the bike lane or a multi-use path;
- If no path/lane available, should be ridden in the street or on the sidewalk, following road rules and yielding to pedestrians
- No scooters allowed on OSMP trails, including paved multi-use trails.



View image. View detailed version of chart.

Boulder County:

- Classify e-scooters as “Other Power Driven-Mobility Devices” (OPDMDs)

E-Scooter Guides:

- Distinguish e-scooters and low-powered e-scooters, specifically; but refer to OPDMDs generally regarding policy. State general OPDMDs (which includes e-scooters) cannot be used on any trail, unless specifically permitted. There are disability (Rule 9(b)) and emergency vehicle exceptions.
- Individuals with mobility disabilities may use OPDMDs on all trails open for pedestrian use unless a particular trail has been designated as inappropriate for use by OPDMDs

based upon the assessment factors found in 28 CFR § 35.137(b)(2) of the Americans with Disabilities Act.

- OPDMD is defined as any mobility device powered by batteries, fuel, or other type engine that is used by individuals with mobility disabilities for the purpose of locomotion, including golf carts, electronic personal assistance mobility devices such as the Segway® PT, or any other mobility device.
- Use of OPDMDs must be in a safe manner and is at the risk of the user. OPDMDs may not be used off trail.

Rule 9(b): disability exemption:

"Individuals with mobility disabilities are permitted to use wheelchairs and/or manually powered mobility aids on any trail open to pedestrian use so long as they are used in a manner that is safe for the user. Individuals with mobility disabilities may use other power-driven mobility devices ("OPDMDs") on all trails open for pedestrian use unless a particular trail has been designated as being unsafe for use by OPDMDs based upon the assessment factors found in 28 CFR 35.137(b)(2). A current list of trails that have been designated as being unsafe for use of OPDMDs shall be kept on the Boulder County Parks & Open Space web site…"

All OPDMDs Allowed

- Agricultural Heritage Center
- All trails at Carolyn Holmberg Preserve at Rock Creek Farm
- All trails at Coalton Trailhead
- All trails at Lagerman Agricultural Preserve
- All trails at Pella Crossing
- All trails at Twin Lakes
- All trails at Walden Ponds Wildlife Habitat
- Coal Creek Trail
- Meyers Homestead Trail at Walker Ranch
- Niwot and Dry Creek Trails
- Rock Creek Trail

OPDMDs Less Than Four Feet in Width Allowed

- All trails at Caribou Ranch (no e-bikes)
- Boulder Canyon Trail
- Cattail Pond Trail at the Fairgrounds
- Dodd Lake Trail at Dodd Lake
- Indian Mesa Trail at Ron Stewart Preserve at Rabbit Mountain

All OPDMDs Prohibited Except Electric Bicycles

- All trails at Mud Lake
- Bald Mountain
  - Pines to Peaks Loop
- Betasso Preserve
  - Benjamin Loop
  - Betasso Link Trail
  - Bummer's Rock Trail
  - Canyon Loop
  - Loop Link
- Hall Ranch
  - Antelope Trail
  - Button Rock Trail
  - Nelson Loop
  - Nighthawk Trail
- Heil Valley Ranch
  - Lichen Loop
  - Overland Loop Trail
  - Picture Rock Trail
  - Ponderosa Loop
  - Wapiti Trail
  - Wild Turkey Trail

All OPDMDs Prohibited

- Anne U. White Trail
- Blanchard Trail at Betasso Preserve
- Fourmile Link at Betasso Preserve
- Bitterbrush Trail at Hall Ranch
- Walker Loop at Walker Ranch

City of Louisville:

- No specific regulations with scooters

City of Broomfield

- Classify e-scooters according to Colorado State Law and as a result, distinguish "low-power scooters," "scooters 50 cc or over," and "toy vehicles." Broomfield Code: Title 10, Chapter 16.

  Low-Power Scooters:

  Colorado Revised Statute 42-1-102(48.5) states: "Low-power scooter" means a self-propelled vehicle designed primarily for use on the roadways with not more than three wheels in contact with the ground, no manual clutch, and either of the following: a cylinder capacity not exceeding 50 cubic centimeters if powered by internal combustion; or a wattage not exceeding 4,476 if powered by electricity. This classification includes all two- and three-wheeled vehicles with under 50 cc engines, regardless of whether they are gas- or electric-powered, and are equipped with the mandatory safety equipment necessary for vehicles to travel on public roadways. Both Colorado Revised Statute 42-4-

201 et seq. and Model Traffic Code Part 2 address the various equipment requirements for motor vehicles permitted to travel on public roadways. The following are examples of these vehicles. This list is not all inclusive: Road Scooters & Mopeds (Kinetic or Hybrids).

Summary of laws regarding the use of low-power scooters in Broomfield:

- Low-power scooters MAY be ridden on public roadways.
- Low-power scooter riders must have a valid driver's license, but are not required to have a motorcycle endorsement.
- Motorized Bicycles ridden on public roadways must have a valid registration decal.
- Low-power scooters ridden on public roadways are required to have insurance.
- Low-power scooter riders and passengers must wear eye protection.
- Colorado currently has no helmet law; however, riders and passengers under the age of 18 must wear a helmet.
- Low-power scooter riders must obey all laws applicable to other motor vehicles.
- Low-power scooters MAY NOT be ridden on sidewalks, bike trails, parks, fields, or any other areas commonly used by pedestrians and bicycles.

Motorcycles/Scooters 50 cc and Over:

All two and three wheeled vehicles with 50 cc or larger engines, regardless of whether they are gas or electric powered, are considered motorcycles. Colorado Revised Statute 42-1-102(55) and Model Traffic Code 102(38), give the following definition: "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "farm tractor" and except a motorized bicycle. The following items are examples of motorcycles: Motorcycles, Scooters, Trikes, & Mopeds (Kinetic or Hybrids)

Summary of laws regarding the use of Motorcycles in Broomfield:

- Motorcycles MAY be ridden on public roadways.
- Motorcycle riders must have a valid driver's license with a motorcycle endorsement.
- Motorcycles ridden on public roadways must have valid registration (license plates).
- Motorcycles ridden on public roadways must have current liability insurance.
- Motorcycle riders and passengers must wear eye protection. Colorado currently has no helmet law.
- Motorcycle riders must obey all laws applicable to other motor vehicles.
- Motorcycles MAY NOT be ridden on sidewalks, bike trails, parks, fields or any other areas commonly used by pedestrians and bicycles.

City of Lafayette:

- Classify e-scooters as “low-power scooter,” “electric scooter,” and EPAMD. Recently updated definitions and policies in June, 2023.
- Sec 80-94.1 prohibits e-scooters on lands owned solely by City of Lafayette with open space designation (where designated), except with permission from director and persons with disabilities.
- Sec 80-54, Model Traffic Code, allows e-scooter, low-power scooters, and other designations to be used on established roadways.
- Only makes e-bike decisions on trails; distinguished by wattage (under 750) and speed (under 15 mph)

US Fish & Wildlife:

- No e-scooter policy; only e-bike

National Park:

- Classified as EMPAD, restricted to certain areas and conditions.
- Not allowed on trails or wilderness areas. Allowed on roads, parking areas, and bike lanes.

CPW:

- Hb19-1221 classifies e-scooters as a “vehicle,” which generally means they are allowed on roadways. Prior to, e-scooters were “toy vehicles” and permitted for sidewalk use.
- In cases, prohibited from use in campgrounds and roadways (see Cherry Creek State Park).

Trail Courtesy Campaign Scope Update:

On 12/12/2022, PARC and OSAC subcommittee met with TOS Staff to discuss the scope of Trail Courtesy Campaign.

1.) Establish a set of key, over-arching trail courtesy messages with main ideas for Trail Courtesy Campaign.

Utilize/build-upon, or revise the existing TOS trails-etiquette Website to build upon the new Trail Courtesty Campaign messaging (Note: the following was formulated by Town of Superior Parks, Recreation, Open Space & Trails Advisory Committee (PROSTAC)):

"Be Courteous

• Yield to others when entering or crossing trail.

• Faster trail users should yield to slower traffic.

• Move off the trail when stopped to allow others to pass.

Bicycles Stay to the Right and Pass with Care

• Look ahead and behind before passing.

• Ring a bell or give a clear verbal warning by saying "passing" or "on your left" before passing other trail users.

• Yield to oncoming traffic when passing.

Be Safe

• Always wear a helmet when biking.

• Use bicycle lights and reflectors after dusk.

• Use hand signals to indicate a turn.

• Trail users are asked to maintain courtesy speeds of 15 mph or less.

• Watch and listen for others.

• Approach turns in anticipation of someone around the bend.

• Keep earbud volume low in order to hear others approaching.

Protect the Trails and Ecosystems

• Stay on the trails to protect vegetation and minimize erosion.

• Keep trails litter free by carrying out anything you bring in.

• Do not ride on wet or muddy nature trails.

• Avoid locking wheels and skidding on steep trails. Dismount and walk your bike. Do not disturb wildlife.

Be responsible with Pets

• Keep all pets on a leash within four feet of you.

• Pick up pet waste."

2.) Short slogans/ ideas for dispersed physical trail signage, potentially with QR codes that link back to the TOS's main website:
    - Ideas for slogans:
        - "Share Smart"
        - "Please don't fly passing by"
        - "Have a mind to be kind"
        - "Ride the Mile with a Smile"
        - "Have a Mind to be Kind"
        - "Slow it down without a frown"
        - "Please scoop your poop"
        - "May the leash be with you, always"
        - "Common Courtesy Creates Community"

3.) Then based on messaging, work with TOS artists to draft some creative visuals based on the messaging to first be distributed electronically.
4.) Combine visuals & messaging to be incorporated into TOS electronic communications, and the Town's website.
    - Provide the same visuals and messaging about the campaign with the local schools to be distributed in their weekly newsletters, including Monarch, Eldorado, SES.
5.) Once messaging and visuals have been established, then leverage existing TOS "way-finding" signage, to potentially use as template for new locations for Trail Courtesy Campaign signage, and subject to TOS staff recommendations. Physical signs might have QR codes linking observers to the TOS Trail Courtesy Campaign Website.
    - Physical trail signage could include any number and combination of "sandwich boards" and "popcycle" signs dispersed at major trailheads, and/or along the paved or gravel trails throughout TOS.
6.) Continual refinement and delivery of such messages through communications via TOS email distributions, TOS Website and physical signage throughout town.
7.) Also consider attending existing events to highlight the trail courtesy campaign to the community at Arbor Day, or 4th of July, or Octoberfest.