

**TOWN OF PARKER COUNCIL AGENDA
OCTOBER 17, 2016**

Notes:

Town Council meeting packets are prepared several days prior to the meeting. This information is reviewed and studied by the Councilmembers eliminating lengthy discussions to gain a basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the part of Council.

Ordinances listed for first reading are being approved to introduce them. Public comment will be held upon second reading.

Start times for regular agenda items are tentative; some items may be held earlier than scheduled time.

1. **TOWN COUNCIL MEETING SCHEDULE**

- (a) **5:30 P.M. – Call to Order Town Council Meeting and Roll Call**
- (b) **Executive Session – Immediately following Call to Order/Roll Call – (See Attached)**
- (c) **Reconvene Town Council Meeting at 7:00 P.M. or as soon thereafter as the regular public meeting can be conducted.**

2. **SPECIAL PRESENTATIONS**

3. **PARKER CHAMBER OF COMMERCE UPDATES**

4. **PUBLIC COMMENTS – 3 Minute Limit (No action will be taken on these items.)**

5. **REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL**

6. **CONSENT AGENDA**

Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless Council votes to remove an item for individual discussion. Ordinances on the Consent Agenda are for introduction only and will not be removed for discussion.

A. **APPROVAL OF MINUTES**

October 3, 2016

B. **ORDINANCE NO. 9.259 – First Reading**

A Bill for an Ordinance to Approve the Intergovernmental Agreement By and Between the Town of Parker and the Colorado Department of Transportation (CDOT) Concerning Funding for the Construction of the Parker Road Sidewalk Connection Project (East Side – Sulphur Gulch Trail to Plaza Drive)

Department: Engineering, Chris Hudson

Second Reading: November 7, 2016

C. **ORDINANCE NO. 1.491 – First Reading – (To be continued to November 7, 2016)**

A Bill for an Ordinance to Approve the Memorandum of Understanding Among Arapahoe County Sheriff's Office, Cunningham Fire Protection District, South Metro Fire Rescue Fire Protection District, and the Town of Parker, Concerning the Arapahoe County Type IV All Hazards Incident Management Team

Department: Police, Doreen Jokerst

Second Reading: November 7, 2016

- D. **RESOLUTION NO. 16-064**
A Resolution Accepting the Conveyance of a Drainage Easement from Drake Cares #3, LLC, for Lot 8, Parker Hilltop Town Square – 1st Amendment
Department: *Engineering, Alex Mestdagh*

7. **TOWN ADMINISTRATOR**

- **Reports**

8. **PUBLIC HEARINGS**

A. **ORDINANCE NO. 3.325 – First Reading**

A Bill for an Ordinance Zoning Certain Property Within the Town of Parker, Colorado, Known as the Meadowlark Property to PD-Planned Development District Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform Therewith

Department: **Community Development, Ryan McGee**

Second Reading: **To be continued to a date uncertain.**

B. **ORDINANCE NO. 1.465.3 – Second Reading**

A Bill for an Ordinance to Adopt the 2016 Revised Budget for the Town of Parker and to Make Appropriations for the Same

Department: **Finance, Don Warn**

9. **ORDINANCE NO. 8.24.7 – Second Reading**

A Bill for an Ordinance Amending Chapter 4.03 of the Parker Municipal Code to Establish a Fee for Paper Submittal of Sales Tax Returns

Department: **Finance, Don Warn**

10. **ORDINANCE NO. 3.01.110 – Second Reading**

A Bill for an Ordinance to Amend Section 13.07.130 of the Parker Municipal Code Concerning the Surveyor Certification

Department: **Town Attorney, Jim Maloney**

11. **ADJOURNMENT**

Parker Town Council

Executive Session Agenda

October 17, 2016

“To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).”

1. Proposed Tax and Fee Assistance Agreement between the Town and All Fired Up! LLC
2. Proposed intergovernmental with the E-470 Public Highway Authority for regional trail improvements

"To hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b)."

3. Section 13.01.090 of the Parker Municipal Code

“To consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a).”

4. Proposed acquisition of right-of-way for the Eastern Access Drive

**TOWN OF PARKER COUNCIL
MINUTES
OCTOBER 3, 2016**

Mayor Mike Waid called the meeting to order at 6:34 P.M. All Councilmembers were present.

Town Attorney Jim Maloney announced that the topics for discussion in Executive Session were two (2) items under C.R.S. § 24-6-402(4)(b); the first was a specific legal question concerning Ordinance No. 4.111.1 Concerning Growing Medical Marijuana and the second was a specific legal question concerning Section 13.04.290 of the Parker Municipal Code.

EXECUTIVE SESSION

Amy Holland moved and Josh Martin seconded to go into Executive Session to hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).

The motion was approved unanimously.

Debbie Lewis moved and John Diak seconded to come out of Executive Session at 5:56 P.M.

The motion was approved unanimously.

REGULAR MEETING

Mayor Waid reconvened the meeting at 7:15 P.M.

Two youngsters from the audience led the Council and audience in the Pledge of Allegiance.

SPECIAL PRESENTATIONS

Mayor Waid presented Brian Dickman and Stacy Rogmore will certificates in recognition of their life saving efforts performing the Heimlich maneuver on September 15, 2016.

PARKER CHAMBER OF COMMERCE UPDATES

Dennis Houston, President and CEO of the Parker Chamber of Commerce, gave an update on the Parker Chamber of Commerce events and activities.

DOWNTOWN BUSINESS ALLIANCE UPDATES – None

PUBLIC COMMENTS – None

REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

Josh Martin

Working on a few items with E-470.

Amy Holland

Attended the graduation ceremony for the CERT Program.

Joshua Rivero

He is the Chairman of Douglas County Youth Initiative. They attended the Youth Congress last week; traditionally it has been at the State Capitol, however, this year it was moved to Parker.

Renee Williams

- Attended Douglas County training for non-profit organizations.
- Lunch at the Senior Center.
- Attended political forum at the Metro Homebuilders.
- Attended Spamalot at PACE.
- Rocky Vista University military event.

Debbie Lewis

- Chamber Board Meeting
- Attended the political forum last Wednesday.
- Went to Spamalot play on Friday evening.
- Attended the Parker Chamber of Commerce Board Meeting.

John Diak

- Attended several retention visits.
- Attended the Scientific Cultural Commission Meeting.

Mike Waid

- Spoke to the 7th Grade at Cimarron Middle School.
- Participated in the Spamalot Play last weekend.

CONSENT AGENDA

A. *APPROVAL OF MINUTES*
September 19, 2016

B. *ORDINANCE NO. 1.465.3 – First Reading*
A Bill for an Ordinance to Adopt the 2016 Revised Budget for the Town of Parker and to Make Appropriations for the Same
Department: Finance, Don Warn
Second Reading: October 17, 2016

C. *ORDINANCE NO. 8.24.7 – First Reading*
A Bill for an Ordinance Amending Chapter 4.03 of the Parker Municipal Code to Establish a Fee for Paper Submittal of Sales Tax Returns
Department: Finance, Don Warn
Second Reading: October 17, 2016

D. *ORDINANCE NO. 3.01.110 – First Reading*
A Bill for an Ordinance to Amend Section 13.07.130 of the Parker Municipal Code Concerning the Surveyor Certification
Department: Town Attorney, Jim Maloney
Second Reading: October 17, 2016

E. *CONTRACTS ABOVE \$100,000*

- *Dog Park/Disc Golf Project*
Amount:
Contractor:
Department: Recreation, Dennis Trapp

F. *PROCLAMATION – Community Planning Month, October 2016*

Department: Town Council

John Diak moved and Amy Holland seconded to approve Consent Agenda Items 6A through 6F.

The motion was approved unanimously.

TOWN ADMINISTRATOR

• **Reports**

At the Parker Adventist Hospital Board of Trustee Meeting, the police chief and officers were invited at which they were thanked for the Dan Brite incident.

PUBLIC HEARINGS

RESOLUTION NO. 16-063

A Resolution to Approve the Consolidated Service Plan for Chambers Highpoint Metropolitan District No. 1 and Chambers Highpoint Metropolitan District No. 2

Department: Town Attorney, Jim Maloney

7:36 P.M.

The owner of the real property commonly known as Chambers Highpoint desires to form a metropolitan district to finance the construction of public improvements. The property owner cannot proceed to form a metropolitan district until the Town Council, following notice and hearing, approves the service plan for the metropolitan district.

The application was administratively reviewed by Town staff as required by Section 10.11.160 of the Parker Municipal Code and a comprehensive analysis is contained in the written report given to Council.

Applicant

Russell Dykstra of Spencer Fane was available for questions.

Public Comment

Sharon Stockdale, 12992 N. 6th St. (Grandview Estates) would like the road to be moved further north, closer to E-470.

The Public Hearing was closed at 7:43 P.M.

Joshua Rivero moved to approve Resolution No. 16-063.

Amy Holland seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 1.486 – Second Reading

A Bill for an Ordinance Conveying Certain Real Property by Quitclaim Sale Deed to Pine Bluffs Investors, LLC

Department: Engineering, Chris Hudson

According to the title company, the ownership of the future right-of-way parcel between Parker Road and Pine Drive is in question. While the plat did not convey the property to the Town of Parker, there is intent to in the future. The purchaser of the property is planning a different development and there would not be a public right-of-way needed. Therefore, Town staff would like to proceed with vacation of our potential interest in this parcel via a quitclaim deed.

Applicant

Chris Benish (sp) was available for questions.

Public Comment – None

Amy Holland moved to approve Ordinance No. 1.486 on second reading.

Renee Williams seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 3.01.107.1 – Second Reading

A Bill for an Ordinance Amending Chapter 13.04 of the Parker Municipal Code Concerning Group Homes and Group Home Residential Facilities and the Definition of Family

Department: Town Attorney, Jim Maloney

Some planned development areas of the Town contain different definitions of what constitutes a family, which has resulted different treatment of group homes within the Town. In order to address this issue and create uniformity throughout the Town, the group Home Ordinance needs to be amended to provide that the Town’s definition of “family” applies equally to all planned developments in the Town.

On May 18, 2015, the Town Council approved the group home ordinance (the “Group Home Ordinance”), which requires Town Council approval, as a conditional use, of all group homes that have between six (6) and eight (8) unrelated persons.

In order to address this issue, avoid a claim of discrimination and create uniformity throughout the Town, the Group Home Ordinance needs to be amended to provide that the Town’s definition of “family” applies to all planned development areas in the Town.

Public Comment – None

Josh Martin moved to approve Ordinance No. 3.01.107.1 on second reading.

John Diak seconded the motion.

The motion was approved unanimously.

The following Ordinances, No. 1.487, 1.488, 1.489 and 1.490 were discussed together.

ORDINANCE NO. 1.487 – Second Reading

A Bill for an Ordinance to Vacate a Drainage Easement (Reception No. 2005030720) on Real Property Owned by Horseshoe Ridge, LLC, Pursuant to Section 13.07.120(c)(5) of the Parker Municipal Code

Department: Engineering, Chris Hudson

This was the vacation of a drainage easement that is no longer needed at the northwest corner of Hess Road and Motsenbocker Road.

Public Comment – None

Joshua Rivero moved to approve Ordinance No. 1.487 on second reading.

Debbie Lewis seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 1.488 – Second Reading

A Bill for an Ordinance to Vacate a Slope Easement (Reception No. 2005030721) on Real Property Owned by Horseshoe Ridge, LLC, Pursuant to Section 13.07.120(c)(5) of the Parker Municipal Code

Department: Engineering, Chris Hudson

This was a vacation of a slope easement that is no longer needed adjacent to the north side of Hess Road east of the Pardee Street intersection.

Public Comment – None

Josh Martin moved to approve Ordinance No. 1.488 on second reading.

Amy Holland seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 1.489 – Second Reading

A Bill for an Ordinance to Vacate a Slope Easement (Reception No. 2005030722) on Real Property Owned by Horseshoe Ridge, LLC, Pursuant to Section 13.07.120(c)(5) of the Parker Municipal Code

Department: Engineering, Chris Hudson

This was a vacation of a slope easement that is no longer needed adjacent to the north side of Hess Road west of the Pardee Street intersection.

Joshua Rivero moved to approve Ordinance No. 1.489 on second reading.

John Diak seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 1.490 – Second Reading

A Bill for an Ordinance to Vacate a Slope Easement (Reception No. 2005030723) on Real Property Owned by Horseshoe Ridge, LLC, Pursuant to Section 13.07.120(c)(5) of the Parker Municipal Code

Department: Engineering, Chris Hudson

Renee Williams moved to approve Ordinance No. 1.490 on second reading.

Amy Holland seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 4.111.1 – Second Reading

A Bill for an Ordinance to Amend Section 11.17.20 of the Parker Municipal Code Concerning Growing Medical Marijuana

Department: Town Attorney, Jim Maloney

The Town currently permits residential cultivation of marijuana for medical use. Although the Town’s regulations have been in effect since 2011, the Town has encountered large-scale cultivation of marijuana for medical use in Town residences, often in noncompliance with the Town’s regulations. The Town has received numerous nuisance complaints of foul smell coming from residences in the Town that are cultivating marijuana on a large scale, including illegal modifications to electrical and ventilation systems and the illegal storage of chemicals used in the cultivation of marijuana, creating significant public safety issues for both the occupants of these residences as well as their neighbors.

Recently, Douglas County adopted an ordinance to regulate the cultivation of marijuana within unincorporated areas of Douglas County. The major difference between Douglas County’s ordinance and the Town’s regulations, is that Douglas County limits the number of plants that can be cultivated within a primary residence to twelve (12) and limits the area used for cultivation to 1,000 cubic feet volume. The Town does not regulate the number of plants that can be cultivated within a primary residence, but does regulate square footage of the area that can be used to cultivate, produce or possess marijuana plants. However, the Town’ regulations do not limit the height of the area used to cultivate, produce or possess marijuana plants

In order to address the public safety impacts created by large-scale cultivation of marijuana within primary residences and to establish uniformity in the regulations between the Town and unincorporated Douglas County, the proposed ordinance will limit the number of marijuana plants that may be grown in the primary residence to twelve (12) and will set the maximum ceiling height at ten (10) feet within the area used for cultivation.

It was noted that limiting light output from grow spaces could eliminate the need for wiring and ventilation modifications while allowing legitimate growers to cultivate the plants they need. You could have as many plants as you want within the 150 square foot limit. The 5,000 watt limit on light output could be an easy fix to a complex problem.

Chief Building Official Gil Rossmiller presented a slideshow of photos showing poor wiring, improper ventilation and illegal building modifications in local houses and the resulting damage to the homes from humid conditions.

Detective Cleveland Holmes pointed out that he and other officers spend a lot of time investigating marijuana grows. He pointed out that it is difficult to shut down grow operations when the police can't prove the marijuana is being trafficked illegally. Ordinance like Parker's and the one passed in Douglas County give the police tools to shut down grow operations.

It was pointed out that there were 12 grow areas in Parker.

Public Comment – None

A continuance to February 6, 2017, of both ordinances, medical and personal use, was requested by staff. The focus will be on medical and will also give staff time to vet an alternative concept.

Amy Holland moved to continue Ordinance Nos. 4.111.1 and 4.111.2 to February 6, 2017.

Debbie Lewis seconded the motion.

The motion was approved unanimously.

ORDINANCE NO. 4.111.2 – Second Reading
A Bill for an Ordinance to Amend Section 11.18.20 of the Parker Municipal Code
Concerning Growing Marijuana for Personal Use
Department: Town Attorney, Jim Maloney

See Ordinance No. 4.111.1.

The meeting was adjourned at 8:54 P.M.

Carol Baumgartner, Town Clerk

Mike Waid, Mayor



REQUEST FOR TOWN COUNCIL ACTION

TITLE: ORDINANCE NO. 9.259 – First Reading – A Bill for an Ordinance to Approve the Intergovernmental Agreement By and Between the Town of Parker and the Colorado Department of Transportation (CDOT) Concerning Funding for the Construction of the Parker Road Sidewalk Connection Project (East Side – Sulphur Gulch Trail to Plaza Drive)

- | | | |
|---|---|--------------|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> ORDINANCE FOR 1 ST READING | (10/17/2016) |
| <input type="checkbox"/> CONTRACT | <input type="checkbox"/> ORDINANCE FOR 2 ND READING | (11/07/2016) |
| <input type="checkbox"/> MOTION | <input type="checkbox"/> RESOLUTION | |


Tom Williams, Director of Engineering


G. Randolph Young, Town Administrator

ISSUE:

Approval of an Intergovernmental Agreement (IGA) with CDOT to receive federal funding for construction of a sidewalk on the east side of Parker Road (State Highway 83) from the Sulphur Gulch Trail to the Plaza Drive intersection.

PRIOR ACTION:

Town Council approved an Intent to Acquire Ordinance on February 16, 2016, for needed easements for the project.

FUNDING/BUDGET IMPACT:

As with any new sidewalk construction, long-term maintenance should be anticipated. Given typical use and proper initial construction, the sidewalk should last for 30 years. Snow removal is not typically the Town’s responsibility unless the Town is the adjacent property owner. While this sidewalk will be predominately on CDOT property, CDOT does not own or maintain the sidewalk and the Town will be responsible for any damage and/or replacement.

BACKGROUND:

The Town of Parker is proposing the construction of a sidewalk on the east side of Parker Road (State Highway 83) from the Sulphur Gulch Trail to the Plaza Drive intersection in 2018. This sidewalk would be a 10-foot wide multi-use path that would utilize the existing sidewalk through the west side of the O’Brien Park site. Through the Denver Regional Council of Governments, the Town was approved to receive partial federal funding for the construction of this sidewalk. Federal funding for this project is distributed through CDOT and is considered a local agency project. An IGA with CDOT is required to receive these funds. The proposed IGA is for direct construction funding only and is an 80/20 split with 80% of the construction funding being

federally reimbursed up to a maximum of \$504,000. The Town will be required to fund the remaining 20% of the direct construction cost. The federal funds cannot be used for non-direct construction expenses like the design, easement acquisition, material testing or construction administration and the Town will be responsible for these costs. The federal funding can only be used for the direct construction cost that will be determined through a contract with the lowest responsible bidder. The federal funding comes with considerable "strings" such as increased documentation that must be submitted, CDOT oversight and federally established Davis-Bacon wages.

The Town is currently in the process of acquiring the permanent and temporary easements needed to construct this sidewalk. While the majority of the sidewalk improvements will be located in CDOT right-of-way, some easements are required. Town Council approved the Intent to Acquire Ordinance for these needed easements on February 16, 2016. This acquisition process is underway and will continue into 2017. The federal funding for this project will become available as part of the 2018 federal fiscal year which commences on October 1, 2017. Assuming that all of the needed easements can be obtained and this funding IGA is approved, the plan is to competitively bid the sidewalk project in late-2017 and construct in the spring of 2018.

Approximately 5-years ago, the Town constructed a partially federally funded sidewalk on the west side of Parker Road from Mainstreet to Lincoln Avenue. This prior project was a 50/50 federally funded construction project. This project was successfully completed with a similar CDOT IGA. An ordinance is required to approve this Intergovernmental Agreement.

RECOMMENDATION:

Approve the ordinance.

PREPARED/REVIEWED BY:

- 1) Chris Hudson, CIP & Construction Manager
- 2) Jim Maloney, Town Attorney

ATTACHMENTS:

- 1) Vicinity Map (1 page)
- 2) Ordinance (2 pages)
- 3) Intergovernmental Agreement (Exhibit to the Ordinance) Deed (55 pages)

RECOMMENDED MOTION:

"I move to approve Ordinance No. 9.259 on first reading and schedule second reading for November 7, 2016, as a part of the consent agenda."

Parker Road Sidewalk (East) Vicinity Map



ORDINANCE NO. 9.259, Series of 2016

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE TOWN OF PARKER AND COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) CONCERNING FUNDING FOR THE CONSTRUCTION OF THE PARKER ROAD SIDEWALK CONNECTION PROJECT (EAST SIDE – SULPHUR GULCH TRAIL TO PLAZA DRIVE)

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Intergovernmental Agreement by and between the Town of Parker Colorado Department of Transportation (CDOT) Concerning Funding for the Construction of the Parker Road Sidewalk Connection Project (East Side – Sulphur Gulch Trail to Plaza Drive), which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. **Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. **Severability.** If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this _____ day of _____,
2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

Project: Parker Road Sidewalk Connection
AQC M039-004 (21058)
Region: 1 (JH)

(FMLAWRK) Rev. 7/8/09

STATE OF COLORADO
Department of Transportation
Agreement
with
TOWN OF PARKER

TABLE OF CONTENTS

1.	PARTIES.....	2
2.	EFFECTIVE DATE AND NOTICE OF NONLIABILITY.....	2
3.	RECITALS.....	2
4.	DEFINITIONS.....	2
5.	TERM AND EARLY TERMINATION.....	3
6.	SCOPE OF WORK.....	3
7.	OPTION LETTER MODIFICATION.....	6
8.	PAYMENTS.....	7
9.	ACCOUNTING.....	9
10.	REPORTING - NOTIFICATION.....	9
11.	LOCAL AGENCY RECORDS.....	10
12.	CONFIDENTIAL INFORMATION-STATE RECORDS.....	10
13.	CONFLICT OF INTEREST.....	11
14.	REPRESENTATIONS AND WARRANTIES.....	11
15.	INSURANCE.....	12
16.	DEFAULT-BREACH.....	13
17.	REMEDIES.....	13
18.	NOTICES and REPRESENTATIVES.....	15
19.	RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE.....	15
20.	GOVERNMENTAL IMMUNITY.....	15
21.	STATEWIDE CONTRACT MANAGEMENT SYSTEM.....	15
22.	FEDERAL REQUIREMENTS.....	16
23.	DISADVANTAGED BUSINESS ENTERPRISE (DBE).....	16
24.	DISPUTES.....	16
25.	GENERAL PROVISIONS.....	16
26.	COLORADO SPECIAL PROVISIONS.....	19
27.	SIGNATURE PAGE.....	21
28.	EXHIBIT A – SCOPE OF WORK	
29.	EXHIBIT B – LOCAL AGENCY RESOLUTION	
30.	EXHIBIT C – FUNDING PROVISIONS	
31.	EXHIBIT D – OPTION LETTER	
32.	EXHIBIT E – LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST	
33.	EXHIBIT F – CERTIFICATION FOR FEDERAL-AID CONTRACTS	
34.	EXHIBIT G – DISADVANTAGED BUSINESS ENTERPRISE	
35.	EXHIBIT H – LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	
36.	EXHIBIT I – FEDERAL-AID CONTRACT PROVISIONS	
37.	EXHIBIT J – FEDERAL REQUIREMENTS	
38.	EXHIBIT K – SUPPLEMENTAL FEDERAL PROVISIONS	

EXHIBIT 1 - Sheet 1 of 55

1. PARTIES

THIS AGREEMENT is entered into by and between TOWN OF PARKER (hereinafter called the "Local Agency"), and the STATE OF COLORADO acting by and through the Department of Transportation (hereinafter called the "State" or "CDOT").

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Agreement shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or their designee (hereinafter called the "Effective Date"). The State shall not be liable to pay or reimburse the Local Agency for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment and the required approval, clearance and coordination have been accomplished from and with appropriate agencies.

i. Federal Authority

Pursuant to Title I, Subtitle A, Section 1108 of the "Transportation Equity Act for the 21st Century" of 1998 (TEA-21) and/or the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU) of 2005 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 the 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").

ii. 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.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Agreement.

C. Purpose

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

D. References

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.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Agreement or Contract

"Agreement" or "Contract" means this Agreement, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Agreement, and any future modifying agreements, exhibits, attachments or references that are incorporated pursuant to Colorado State Fiscal Rules and Policies.

B. Agreement Funds

"Agreement Funds" means funds payable by the State to Local Agency pursuant to this Agreement.

C. Budget

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

D. Consultant and Contractor

"Consultant" means a professional engineer or designer hired by Local Agency to design the Work and "Contractor" means the general construction contractor hired by Local Agency to construct the Work.

E. Evaluation

“Evaluation” means the process of examining the Local Agency’s Work and rating it based on criteria established in §6 and Exhibits A and E.

F. Exhibits and Other Attachments

The following exhibit(s) are attached hereto and incorporated by reference herein: **Exhibit A** (Scope of Work), **Exhibit B** (Resolution), **Exhibit C** (Funding Provisions), **Exhibit D** (Option Letter), **Exhibit E** (Checklist), **Exhibit F** (Certification for Federal-Aid Funds), **Exhibit G** (Disadvantaged Business Enterprise), **Exhibit H** (Local Agency Procedures), **Exhibit I** (Federal-Aid Contract Provisions), **Exhibit J** (Federal Requirements) and **Exhibit K** (Supplemental Federal Provisions).

G. Goods

“Goods” means tangible material acquired, produced, or delivered by the Local Agency either separately or in conjunction with the Services the Local Agency renders hereunder.

H. Oversight

“Oversight” means the term as it is defined in the Stewardship Agreement between CDOT and the Federal Highway Administration (“FHWA”) and as it is defined in the Local Agency Manual.

I. Party or Parties

“Party” means the State or the Local Agency and “Parties” means both the State and the Local Agency

J. Work Budget

Work Budget means the budget described in **Exhibit C**.

K. Services

“Services” means the required services to be performed by the Local Agency pursuant to this Contract.

L. Work

“Work” means the tasks and activities the Local Agency is required to perform to fulfill its obligations under this Contract and Exhibits A and E, including the performance of the Services and delivery of the Goods.

M. Work Product

“Work Product” means the tangible or intangible results of the Local Agency’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM AND EARLY TERMINATION

The Parties’ respective performances under this Agreement shall commence on the Effective Date. This Agreement shall terminate after five (5) years of state controllers signature in section 27, unless sooner terminated or completed as demonstrated by final payment and final audit.

6. SCOPE OF WORK

A. Completion

The Local Agency shall complete the Work and other obligations as described herein in **Exhibit A**. Work performed prior to the Effective Date or after final acceptance shall not be considered part of the Work.

B. Goods and Services

The Local Agency shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Contract Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed hereunder by the Local Agency, or any Consultants or Contractors shall be considered the Local Agency’s, Consultants’, or Contractors’ employee(s) for all purposes and shall not be employees of the State for any purpose.

D. State and Local Agency Commitments

i. Design

If the Work includes preliminary design or final design or design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), the Local Agency shall comply with and be 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 produced by a Colorado Registered Professional Engineer.
- f) Provide final assembly of Plans and all other necessary documents.
- g) Be responsible for the Plans' accuracy and completeness.
- 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 shall be incorporated herein.

ii. Local Agency Work

- a) Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
- b) Local Agency shall afford the State ample opportunity to review the Plans and make any changes in the Plans that are directed by the State to comply with FHWA requirements.
- c) Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or of 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 the 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, the 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 the 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 the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third-party beneficiary of this 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 the 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, the 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 the Local Agency Contract Administration Checklist.

- a) If the Local Agency is performing the Work, the State may, after providing written notice of the reason for the suspension to the Local Agency, suspend the Work, wholly or in part, due to the failure of the 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) The Local Agency shall be responsible for the following:
 - (1) Appointing a qualified professional engineer, licensed in the State of Colorado, as the 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.
 - (2) For the construction of the Work, advertising the call for bids upon approval by the State and awarding the construction contract(s) to the low responsible bidder(s).
 - (a) All advertising and bid awards, pursuant to this agreement, by the Local Agency 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 the Local Agency and its Contractor shall incorporate Form 1273 (**Exhibit I**) in its entirety verbatim into any subcontract(s) for those services as terms and conditions therefore, as required by 23 C.F.R. 633.102(e).
 - (b) The Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. The Local Agency must accept or reject such bid within three (3) working days after they are publicly opened.
 - (c) As part of accepting bid awards, the Local Agency shall provide additional funds, subject to their availability and appropriation, necessary to complete the Work if no additional federal-aid funds are available.
 - (3) The requirements of this §6(D)(iii)(c)(2) also apply to any advertising and awards made by the State.
 - (4) If all or part of the Work is to be accomplished by the Local Agency's personnel (i.e. by force account) rather than by a competitive bidding process, the Local Agency shall perform such work in accordance with pertinent State specifications and requirements of 23 C.F.R. 635, Subpart B, Force Account Construction.
 - (a) Such Work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency, the State and FHWA in advance of the Work, as provided for in 23 C.F.R. 635.204(c). Such agreed unit prices shall constitute a commitment as to the value of the Work to be performed.
 - (b) An alternative to the preceding subsection is that the Local Agency may agree to participate in the Work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the Work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with 48 C.F.R. Part 31.
 - (c) If the State provides matching funds under this Agreement, rental rates for publicly owned equipment shall be determined in accordance with the State's Standard Specifications for Road and Bridge Construction §109.04.
 - (d) All Work being paid under force account shall have prior approval of the State and/or FHWA and shall not be initiated until the State has issued a written notice to proceed.

E. State's Commitments

- a) 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.

- b) 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 major structures designed by, or that are the responsibility of, the Local Agency as identified in the Local Agency Contract Administration Checklist, **Exhibit E**.

F. ROW and Acquisition/Relocation

- a) If the Local Agency purchases a right of way for a State highway, including areas of influence, the Local Agency shall immediately convey title to such right of way to CDOT after the Local Agency obtains title.
- 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 and 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 compliance responsibilities depend on the level of federal participation; provided however, that the State always retains Oversight responsibilities.
- d) The Parties' respective responsibilities under each level in CDOT's Right of Way Manual (located at http://www.dot.state.co.us/ROW_Manual/) and reimbursement for the levels will be under 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).

G. Utilities

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

- a) **Railroads**

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, the Local Agency shall make timely application to the Public Utilities commission requesting its order providing for the installation of the proposed improvements and not proceed with that part of the Work without compliance. The 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:
- b) Execute an agreement setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- c) Obtain the railroad's detailed estimate of the cost of the Work.
- d) Establish future maintenance responsibilities for the proposed installation.
- e) Proscribe future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- f) Establish future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.

H. Environmental Obligations

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

I. Maintenance Obligations

The 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, and the Local Agency shall provide for such maintenance and operations obligations each year. Such maintenance and operations shall be conducted 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.

7. OPTION LETTER MODIFICATION

An option letter may be used to add a phase without increasing total budgeted funds, increase or decrease the encumbrance amount as shown on **Exhibit C**, and/or transfer funds from one phase to another. Option letter modification is limited to the specific scenarios listed below. The option letter shall not be deemed valid until signed by the State Controller or an authorized delegate.

A. Option to add a phase and/or increase or decrease the total encumbrance amount.

The State may require the Local Agency to begin a phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous (this does not apply to Acquisition/Relocation or Railroads) as detailed in **Exhibit A** and at the same terms and conditions stated in the original Agreement, with the total budgeted funds remaining the same. The State may simultaneously increase and/or decrease the total encumbrance amount by replacing the original funding exhibit (**Exhibit C**) in the original Agreement with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.). The State may exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**. If the State exercises this option, the Agreement will be considered to include this option provision.

B. Option to transfer funds from one phase to another phase.

The State may require or permit the Local Agency to transfer funds from one phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another as a result of changes to state, federal, and local match. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The funds transferred from one phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**. Any transfer of funds from one phase to another is limited to an aggregate maximum of 24.99% of the original dollar amount of either phase affected by a transfer. A bilateral amendment is required for any transfer exceeding 24.99% of the original dollar amount of the phase affected by the increase or decrease.

C. Option to do both Options A and B.

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

8. PAYMENTS

The State shall, in accordance with the provisions of this §8, pay the Local Agency in the amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable is set forth in **Exhibit C** as determined by the State from available funds. Payments to the Local Agency are limited to the unpaid encumbered balance of the Contract set forth in **Exhibit C**. The Local Agency shall provide its match share of the costs as evidenced by an appropriate ordinance/resolution or other authority letter which expressly authorizes the Local Agency the authority to enter into this Agreement and to expend its match share of the Work. A copy of such ordinance/resolution or authority letter is attached hereto as **Exhibit B**.

B. Payment

i. Advance, Interim and Final Payments

Any advance payment allowed under this Contract or in **Exhibit C** shall comply with State Fiscal Rules and be made in accordance with the provisions of this Contract or such Exhibit. The Local Agency shall initiate any payment requests by submitting invoices to the State in the form and manner approved by the State.

ii. Interest

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by the Local Agency previously accepted by the State. Uncontested amounts not paid by the State within 45 days shall bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. The Local Agency shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the State's current fiscal year. Therefore, the Local Agency's compensation beyond the State's current Fiscal Year is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions. The State's performance hereunder is also contingent upon the continuing availability of federal funds. Payments pursuant to this Contract shall be made only from available funds encumbered for this Contract and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may terminate this Contract immediately, in whole or in part, without further liability in accordance with the provisions hereof.

iv. Erroneous Payments

At the State's sole discretion, payments made to the Local Agency in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by the Local Agency, may be recovered from the Local Agency by deduction from subsequent payments under this Contract or other contracts, Agreements or agreements between the State and the Local Agency or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any party other than the State.

C. Use of Funds

Contract Funds shall be used only for eligible costs identified herein.

D. Matching Funds

The Local Agency shall provide matching funds as provided in §8.A. and Exhibit C. The Local Agency shall have raised the full amount of matching funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. The 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 the Local Agency and paid into the Local Agency's treasury. The Local Agency represents to the State that the amount designated "Local Agency Matching Funds" in Exhibit C has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. The 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 the Local Agency. The 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 the Local Agency's laws or policies.

E. Reimbursement of Local Agency Costs

The State shall reimburse the Local Agency's allowable costs, not exceeding the maximum total amount described in Exhibit C and §8. The applicable principles described in 49 C.F.R. 18 Subpart C and 49 C.F.R. 18.22 shall govern the State's obligation to reimburse all costs incurred by the Local Agency and submitted to the State for reimbursement hereunder, and the Local Agency shall comply with all such principles. The State shall reimburse the 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. However, any costs incurred by the Local Agency prior to the date of FHWA authorization for the Work and prior to the Effective Date shall not be reimbursed absent specific FHWA and State Controller approval thereof. Costs shall be:

i. Reasonable and Necessary

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

ii. Net Cost

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

9. ACCOUNTING

The 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:

A. Local Agency Performing the Work

If Local Agency is performing the Work, all allowable costs, including any approved services contributed by the Local Agency or others, shall be documented using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

B. Local Agency-Checks or Draws

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

C. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. The Local Agency shall reimburse the State for the costs of any such services from the Budget as provided for in Exhibit C. If FHWA funding is not available or is withdrawn, or if the Local Agency terminates this Agreement prior to the Work being approved or completed, then all actual incurred costs of such services and assistance provided by the State shall be the Local Agency's sole expense.

D. Local Agency-Invoices

The Local Agency's invoices shall describe in detail the reimbursable costs incurred by the Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and shall not be submitted more often than monthly.

E. Invoicing Within 60 Days

The State shall not be liable to reimburse the Local Agency for any costs unless CDOT receives such invoices within 60 days after the date for which payment is requested, including final invoicing. Final payment to the Local Agency may be withheld at the discretion of the State until completion of final audit. Any costs incurred by the Local Agency that are not allowable under 49 C.F.R. 18 shall be reimbursed by the Local Agency, or the State may offset them against any payments due from the State to the Local Agency.

F. Reimbursement of State Costs

CDOT shall perform Oversight and the Local Agency shall reimburse CDOT for its related costs. The Local Agency shall pay invoices within 60 days after receipt thereof. If the Local Agency fails to remit payment within 60 days, at CDOT's request, the State is authorized to withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to CDOT. Interim funds shall be payable from the State Highway Supplementary Fund (400) until CDOT is reimbursed. If the Local Agency fails to make payment within 60 days, it shall pay interest to the State at a rate of one percent per month on the delinquent amounts until the billing is paid in full. CDOT's invoices shall describe in detail the reimbursable costs incurred, the dates incurred and the amounts thereof, and shall not be submitted more often than monthly.

10. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §10 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §18, if applicable.

A. Performance, Progress, Personnel, and Funds

The Local Agency shall submit a report to the State upon expiration or sooner termination of this Agreement, containing an Evaluation and Review of the Local Agency's performance and the final status of the Local Agency's obligations hereunder.

B. Litigation Reporting

Within 10 days after being served with any pleading related to this Agreement, in a legal action filed with a court or administrative agency, the Local Agency shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State or its principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of CDOT.

C. Noncompliance

The Local Agency's failure to provide reports and notify the State in a timely manner in accordance with this §10 may result in the delay of payment of funds and/or termination as provided under this Agreement.

D. Documents

Upon request by the State, the Local Agency shall provide the State, or its authorized representative, copies of all documents, including contracts and subcontracts, in its possession related to the Work.

11. LOCAL AGENCY RECORDS

A. Maintenance

The 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. The Local Agency shall maintain such records until the last to occur of the following: (i) a period of three years after the date this Agreement is completed or terminated, or (ii) three years after final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or the Local Agency has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (collectively, the "Record Retention Period").

B. Inspection

The Local Agency shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe the Local Agency's records related to this Agreement during the Record Retention Period to assure compliance with the terms hereof or to evaluate the Local Agency's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Agreement, including any extension. If the Work fails to conform to the requirements of this Agreement, the State may require the Local Agency promptly to bring the Work into conformity with Agreement requirements, at the Local Agency's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require the Local Agency to take necessary action to ensure that future performance conforms to Agreement requirements and may exercise the remedies available under this Agreement at law or in equity in lieu of or in conjunction with such corrective measures.

C. Monitoring

The Local Agency also shall permit the State, the federal government or any other duly authorized agent of a governmental agency, in their sole discretion, to monitor all activities conducted by the Local Agency pursuant to the terms of this Agreement using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All such monitoring shall be performed in a manner that shall not unduly interfere with the Local Agency's performance hereunder.

D. Final Audit Report

If an audit is performed on the Local Agency's records for any fiscal year covering a portion of the term of this Agreement, the Local Agency shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

12. CONFIDENTIAL INFORMATION-STATE RECORDS

The Local Agency shall comply with the provisions of this §12 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals. Nothing in this §12 shall be construed to require the Local Agency to violate the Colorado Open Records Act, C.R.S. § 24-72-101 et seq.

A. Confidentiality

The Local Agency shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of the Local Agency shall be immediately forwarded to the State's principal representative.

B. Notification

The Local Agency shall notify its agents, employees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by the Local Agency or its agents in any way, except as authorized by the Agreement and as approved by the State. The Local Agency shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by the Local Agency or its agents, except as set forth in this Agreement and approved by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by the Local Agency for any reason may be cause for legal action by third parties against the Local Agency, the State or their respective agents. The Local Agency is prohibited from providing indemnification to the State pursuant to the Constitution of the State of Colorado, Article XI, Section 1, however, the Local Agency shall be responsible for any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by the Local Agency, or its employees, agents, or assignees pursuant to this §12.

13. CONFLICT OF INTEREST

The Local Agency shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of the Local Agency's obligations hereunder. The Local Agency acknowledges that with respect to this Agreement even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, the Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Local Agency's obligations to the State hereunder. If a conflict or appearance exists, or if the Local Agency is uncertain whether a conflict or the appearance of a conflict of interest exists, the 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 apparent conflict constitutes a breach of this Agreement.

14. REPRESENTATIONS AND WARRANTIES

The Local Agency makes the following specific representations and warranties, each of which was relied on by the State in entering into this Agreement.

A. Standard and Manner of Performance

The Local Agency shall perform its obligations hereunder, including in accordance with the highest professional standard of care, skill and diligence and in the sequence and manner set forth in this Agreement.

B. Legal Authority – The Local Agency and the Local Agency's Signatory

The Local Agency warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement, or any part thereof, and to bind the Local Agency to its terms. If requested by the State, the Local Agency shall provide the State with proof of the Local Agency's authority to enter into this Agreement within 15 days of receiving such request.

C. Licenses, Permits, Etc.

The Local Agency represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. The Local Agency warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Agreement, without reimbursement by the State or other adjustment in Agreement Funds. Additionally, all employees and agents of the Local Agency performing Services under this Agreement shall hold all required licenses or certifications, if any, to perform their responsibilities. The Local Agency, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service

of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for the Local Agency to properly perform the terms of this Agreement shall be deemed to be a material breach by the Local Agency and constitute grounds for termination of this Agreement.

15. INSURANCE

The Local Agency and its contractors shall obtain and maintain insurance as specified in this section at all times during the term of this Agreement: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to the Local Agency and the State.

A. The Local Agency

i. Public Entities

If the Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then the Local Agency 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. The Local Agency shall show proof of such insurance satisfactory to the State, if requested by the State. The Local Agency shall require each Agreement with their Consultant and Contractor, that are providing Goods or Services hereunder, to include the insurance requirements necessary to meet Consultant or Contractor liabilities under the GIA.

ii. Non-Public Entities

If the Local Agency is not a "public entity" within the meaning of the Governmental Immunity Act, the Local Agency shall obtain and maintain during the term of this Agreement insurance coverage and policies meeting the same requirements set forth in §15(B) with respect to sub-contractors that are not "public entities".

B. Contractors

The Local Agency shall require each contract with Contractors, Subcontractors, or Consultants, other than those that are public entities, providing Goods or Services in connection with this Agreement, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of the Local Agency's Contractors, Subcontractors, or Consultant's employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket 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 one fire. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, contractors, subcontractors, and consultants shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the Local Agency a certificate or other document satisfactory to the Local Agency showing compliance with this provision.

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. Additional Insured

The Local Agency and the State shall be named as additional insured on the Commercial General Liability policies (leases and construction contracts require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

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

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Local Agency and the State by certified mail.

vii. Subrogation Waiver

All insurance policies in any way related to this Agreement and secured and maintained by the Local Agency's Consultants or Contractors as required herein shall include clauses stating that each carrier

shall waive all rights of recovery, under subrogation or otherwise, against the Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

The Local Agency and all Contractors, subcontractors, or Consultants shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Agreement. No later than 15 days prior to the expiration date of any such coverage, the Local Agency and each contractor, subcontractor, or consultant shall deliver to the State or the Local Agency certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Agreement or any sub-contract, the Local Agency and each contractor, subcontractor, or consultant shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §15.

16. DEFAULT-BREACH

A. Defined

In addition to any breaches specified in other sections of this Agreement, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner constitutes a breach.

B Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §18. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §17. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Agreement in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

17. REMEDIES

If the Local Agency is in breach under any provision of this Agreement, the State shall have all of the remedies listed in this §17 in addition to all other remedies set forth in other sections of this Agreement following the notice and cure period set forth in §16(B). The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If the Local Agency fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Agreement and in a timely manner, the State may notify the Local Agency of such non-performance in accordance with the provisions herein. If the Local Agency thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Agreement or such part of this Agreement as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. The Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, the Local Agency shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and sub-Agreements with third parties. However, the Local Agency shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Agreement's terms. At the sole discretion of the State, the Local Agency shall assign to the State all of the Local Agency's right, title, and interest under such terminated orders or sub-Agreements. Upon termination, the Local Agency shall take timely, reasonable and necessary action to protect and preserve property in the possession of the Local Agency in which the State has an interest. All materials owned by the State in the possession of the Local Agency shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by the Local Agency to the State and shall become the State's property.

ii. Payments

The State shall reimburse the Local Agency only for accepted performance received up to the date of termination. If, after termination by the State, it is determined that the Local Agency was not in default

or that the 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 the same as if this Agreement had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, the Local Agency also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Agreement by the Local Agency and the State may withhold any payment to the 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 the Local Agency is determined. The State may withhold any amount that may be due to the Local Agency as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. The Local Agency shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Agreement for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Agreement ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Agreement in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Agreement by the State for cause or breach by the Local Agency, which shall be governed by §17(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify the Local Agency of the termination in accordance with §18, specifying 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, the Local Agency shall be subject to and comply with the same obligations and rights set forth in §17(A)(i).

iii. Payments

If this Agreement is terminated by the State pursuant to this §17(B), the Local Agency shall be paid an amount which bears the same ratio to the total reimbursement under this Agreement as the Services satisfactorily performed bear to the total Services covered by this Agreement, less payments previously made. Additionally, if this Agreement is less than 60% completed, the State may reimburse the Local Agency for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by the Local Agency which are directly attributable to the uncompleted portion of the Local Agency's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to the Local Agency hereunder.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

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

ii. Withhold Payment

Withhold payment to the Local Agency until corrections in the Local Agency's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed that due to the Local Agency's actions or inactions cannot be performed or, if performed, would be of no value to the State; provided that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of the Local Agency's employees, agents, or contractors whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Agreement is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If the Local Agency infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Agreement, the Local Agency shall, at the State's option (a) obtain for the State or the Local Agency the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

18. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. If to State:

CDOT Region: 1
Wendy Williams
Project Manager
2000 South Holly Street
Denver, CO 80222
303-757-9002

B. If to the Local Agency:

Town of Parker
Chris Hudson
Project Manager
20120 East Main Street
Parker, CO 80138
303-841-0353

19. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or work product of any type, including drafts, prepared by the Local Agency in the performance of its obligations under this Agreement shall be the exclusive property of the State and all Work Product shall be delivered to the State by the Local Agency upon completion or termination hereof. The State's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. The Local Agency shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of the Local Agency's obligations hereunder without the prior written consent of the State.

20. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees and of the Local Agency is controlled and limited by the provisions of the Governmental Immunity Act and the risk management statutes, CRS §24-30-1501, et seq., as amended.

21. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to the Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §21 applies.

The Local Agency agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state agreements/contracts and inclusion of agreement/contract performance information in a statewide contract management system.

The Local Agency's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Agreement, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of the Local Agency's performance shall be part of the normal Agreement administration process and the Local Agency's performance will be systematically recorded in the statewide Agreement Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of the Local Agency's obligations under this Agreement shall be determined by the specific requirements of such obligations and shall include

factors tailored to match the requirements of the Local Agency's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Agreement term. The Local Agency shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that the Local Agency demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by CDOT, and showing of good cause, may debar the Local Agency and prohibit the Local Agency from bidding on future Agreements. The Local Agency may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of the Local Agency, by the Executive Director, upon showing of good cause.

22. FEDERAL REQUIREMENTS

The 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.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The Local Agency will comply with all requirements of **Exhibit G** and the Local Agency Contract Administration Checklist regarding DBE requirements for the Work, except that if the 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 the Local Agency uses any State- approved DBE program for this Agreement, the 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 the Local Agency's DBE program does not waive or modify the sole responsibility of the Local Agency for use of its program.

24. DISPUTES

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the 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, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of 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.

25. GENERAL PROVISIONS

A. Assignment

The Local Agency's rights and obligations hereunder are personal and may not be transferred, assigned or subcontracted without the prior written consent of the State. Any attempt at assignment, transfer, or subcontracting without such consent shall be void. All assignments and subcontracts approved by the Local Agency or the State are subject to all of the provisions hereof. The Local Agency shall be solely responsible for all aspects of subcontracting arrangements and performance.

B. Binding Effect

Except as otherwise provided in **§25(A)**, all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

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.

D. Counterparts

This Agreement may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous addition, deletion, or other amendment hereto shall not have any force or affect whatsoever, unless embodied herein.

F. Indemnification - General

If Local Agency is not a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., the Local Agency shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by the Local Agency, or its employees, agents, subcontractors or assignees pursuant to the terms of this Agreement. This clause is not applicable to a Local Agency that is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq.

G. Jurisdiction and Venue

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

H. Limitations of Liability

Any and all limitations of liability and/or damages in favor of the Local Agency contained in any document attached to and/or incorporated by reference into this Agreement, whether referred to as an exhibit, attachment, schedule, or any other name, are void and of no effect. This includes, but is not necessarily limited to, limitations on (i) the types of liabilities, (ii) the types of damages, (iii) the amount of damages, and (iv) the source of payment for damages.

I. Modification

i. By the Parties

Except as specifically provided in this Agreement, modifications of this Agreement shall not be effective unless agreed to in writing by both parties in an amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF AGREEMENTS - TOOLS AND FORMS.

ii. By Operation of Law

This Agreement is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Agreement on the effective date of such change, as if fully set forth herein

J. Order of Precedence

The provisions of this Agreement shall govern the relationship of the State and the Local Agency. In the event of conflicts or inconsistencies between this Agreement and its exhibits and attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions,**
- ii. The provisions of the main body of this Agreement,**
- iii. Exhibit A (Scope of Work),**
- iv. Exhibit B (Local Agency Resolution),**
- v. Exhibit C (Funding Provisions),**
- vi. Exhibit D (Option Letter),**
- vii. Exhibit E (Local Agency Contract Administration Checklist),**

viii. Other exhibits in descending order of their attachment.

K. Severability

Provided this Agreement can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

L. Survival of Certain Agreement Terms

Notwithstanding anything herein to the contrary, provisions of this Agreement requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if the Local Agency fails to perform or comply as required.

M. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. The Local Agency shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing the Local Agency for them

N. Third Party Beneficiaries

Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

O. Waiver

Waiver of any breach of a term, provision, or requirement of this Agreement, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

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26. COLORADO SPECIAL PROVISIONS

The Special Provisions apply to all Agreements except where noted in italics.

A. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).

This Agreement shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

B. FUND AVAILABILITY. CRS §24-30-202(5.5).

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

C. GOVERNMENTAL IMMUNITY.

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

D. INDEPENDENT CONTRACTOR.

The Local Agency shall perform its duties hereunder as an independent contractor and not as an employee. Neither The Local Agency nor any agent or employee of The Local Agency shall be deemed to be an agent or employee of the State. The Local Agency 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 The Local Agency or any of its agents or employees. Unemployment insurance benefits shall be available to The Local Agency and its employees and agents only if such coverage is made available by The Local Agency or a third party. The Local Agency shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. The Local Agency shall not have authorization, express or implied, to bind the State to any Agreement, liability or understanding, except as expressly set forth herein. The Local Agency shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

G. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

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

I. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.

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 Agreement. The Local Agency has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of The Local Agency's services and The Local Agency shall not employ any person having such known interests.

J. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.

[Not Applicable to intergovernmental agreements]. Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.

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

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.

The Local Agency, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Agreement.

SPs Effective 1/1/09

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27. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

* Persons signing for The Local Agency hereby swear and affirm that they are authorized to act on The Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.

<p>THE LOCAL AGENCY TOWN OF PARKER</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p>*Signature</p> <p>Date: _____</p>	<p>STATE OF COLORADO John W. Hickenlooper Department of Transportation</p> <p>By _____ Joshua Laipply, P.E., Chief Engineer (For) Shailen P. Bhatt, Executive Director</p> <p>Date: _____</p>
<p>2nd Local Agency Signature if needed</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p>*Signature</p> <p>Date: _____</p>	<p>STATE OF COLORADO LEGAL REVIEW Cynthia H. Coffman, Attorney General</p> <p>By _____ Signature – Assistant Attorney General</p> <p>Date: _____</p>

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

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

<p>STATE OF COLORADO STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Colorado Department of Transportation</p> <p>Date: _____</p>

28. EXHIBIT A – SCOPE OF WORK

21058 / AQC M039-004

Project limits are along the east side of Parker Road from Sulphur Gulch north to the Plaza Drive Intersection (past RTD Park-N-Ride), managed by Town of Parker. This project constructs a new 10' wide and provides way-finding signage with destination and distance information.

Anticipated Project Schedule:

AD- January/February 2018,

Start construction – April/May 2018

Complete Construction Sept./October 2018

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29. EXHIBIT B – LOCAL AGENCY RESOLUTION

**LOCAL AGENCY
ORDINANCE
or
RESOLUTION**

30. EXHIBIT C – FUNDING PROVISIONS

AQC M039-004 (21058)

A. Cost of Work Estimate

The Local Agency has estimated the total cost of the Work to be \$630,000.00, which is to be funded as follows:

1 BUDGETED FUNDS			
a. Federal Funds (CMAQ @ 80%)			\$504,000.00
b. Local Agency Matching Funds (CMAQ @ 20%)			\$126,000.00
TOTAL BUDGETED FUNDS			\$630,000.00
2 ESTIMATED CDOT-INCURRED COSTS			
a. Federal Share (0% of Participating Costs)			\$0.00
b. Local Agency			\$0.00
TOTAL ESTIMATED CDOT-INCURRED COSTS			\$0.00
3 ESTIMATED PAYMENT TO LOCAL AGENCY			
a. Federal Funds Budgeted (1a)			\$504,000.00
b. Less Estimated Federal Share of CDOT-Incurred Costs (2a)			\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY			\$504,000.00
FOR CDOT ENCUMBRANCE PURPOSES			
Total Encumbrance Amount			\$630,000.00
Less ROW Acquisition 3111 and/or ROW Relocation 3109			\$0.00
Net to be encumbered as follows:			\$630,000.00
NOTE: Construction funds are currently not available. The Construction funds will become available after the federal authorization and execution of an Option Letter (Exhibit D) or Amendment.			
WBS Element <<<<<>>>>>	Design	3020	\$0.00
WBS Element 21058.20.10	Const	3301	\$0.00

B. Matching Funds

The matching ratio for the federal participating funds of this Work is 80% federal-aid funds (CFDA #20.205) to 20% Local Agency funds, it being understood that such ratio applies only to the \$630,000.00 that is eligible for federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds \$630,000.00, and additional federal funds are made available for the Work, the Local Agency shall pay 20% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the Local Agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than \$630,000.00, then the amounts of Local Agency and federal-aid funds will be decreased in accordance with the funding ratio described herein. The performance of the Work shall be at no cost to the State.

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$504,000.00 (For CDOT accounting purposes, the federal funds of \$504,000.00 and the Local Agency matching funds of \$126,000.00 will be encumbered for a total encumbrance of \$630,000.00), unless such amount is decreased as described in Sections B. and C. 1. of this Exhibit C, or increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. **NOTE: NOTE: Construction funds are currently not available. The Construction funds will become available after the federal authorization and execution of an Option Letter (Exhibit D) or Amendment.** It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.

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

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving more than \$750,000 from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations). 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 exceeding more than \$750,000-Highway Funds Only

If the Local Agency expends more than \$750,000 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 exceeding more than \$750,000-Multiple Funding Sources

If the Local Agency expends more than \$750,000 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.

31. EXHIBIT D – OPTION LETTER

SAMPLE IGA OPTION LETTER

(This option has been created by the Office of the State Controller for CDOT use only)

NOTE: This option is limited to the specific contract scenarios listed below
AND may be used in place of exercising a formal amendment.

Date:	State Fiscal Year:	Option Letter No.	Option Letter CMS Routing #
			Option Letter SAP #
Original Contract CMS #		Original Contract SAP #	

Vendor name: _____

SUBJECT:

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

REQUIRED PROVISIONS:

Option A (Insert the following language for use with the Option A):

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

Option B (Insert the following language for use with Option B):

In accordance with the terms of the original Agreement (insert CMS # of the original Agreement) between the State of Colorado, Department of Transportation and (insert the Local Agency’s name here), the State hereby exercises the option to transfer funds from (describe phase from which funds will be moved) to (describe phase to which funds will be moved) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2, C-3, C-4, etc.**; and no more than 24.99% of any phase may be moved using this option letter. A transfer greater than 24.99% must be

made using a formal amendment)..

Option C (Insert the following language for use with Option C):

In accordance with the terms of the original Agreement (insert CMS routing # of original Agreement) between the State of Colorado, Department of Transportation and (insert the Local Agency's name here), the State hereby exercises the option to 1) release the Local Agency to begin a phase that will include (describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (describe phase from which funds will be moved) to (describe phase to which funds will be moved) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2, C-3, C-4, etc.**; and no more than 24.99% of any phase may be moved using this option letter. A transfer greater than 24.99% must be made using a formal amendment).

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

The total encumbrance as a result of this option and all previous options and/or amendments is now (insert total encumbrance amount), as referenced in **Exhibit (C-1, C-2, etc., as appropriate)**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: (indicate total budgeted funds) as referenced in **Exhibit (C-1, C-2, etc., as appropriate)** of the original Agreement.

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

APPROVALS:

State of Colorado:

John W. Hickenlooper, Governor

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

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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

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

By: _____

Date: _____

Form Updated: December 19, 2012

32. EXHIBIT E – LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

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

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

COLORADO DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

Project No. AQC M039-004	STIP No. SDR6744.027	Project Code 21058	Region R1
Project Location SH 83 (Parker Rd) from Sulphur Gulch Trail to N. of Plaza Dr			Date 5/4/2016
Project Description Construct a 10' wide sidewalk on the east side of Parker Rd Way-finding signage.			
Local Agency Town of Parker	Local Agency Project Manager Chris Hudson		
CDOT Resident Engineer John Vetterling	CDOT Project Manager Daniel Keyghobad		

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

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

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

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

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consistent with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	#
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	#
5.11	Justify Force Account Work by the Local Agency	X	
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	
5.13	Document Design Exceptions - CDOT Form 464	X	
5.14	Prepare Plans, Specifications and Construction Cost Estimates	X	#
5.15	Ensure Authorization of Funds for Construction		X

PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)	X	
6.2	Determine Applicability of Davis-Bacon Act This project <input type="checkbox"/> is <input checked="" type="checkbox"/> 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.) John Vetterling _____ 5/3/2016 _____ CDOT Resident Engineer (Signature on File) Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals	N/A	X
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals	N/A	X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	#
8.2	Project Safety	X	X
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	X	
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	X	
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Chris Hudson _____ 303-841-0353 _____ Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	

8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates Provide the name and phone number of the person authorized for this task. Christ Hudson Local Agency Representative Phone number	X	
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
8.12	Prepare Local Agency Reimbursement Requests	X	
8.13	Prepare and Authorize Change Orders	X	#
8.14	Approve All Change Orders		X
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. John Vetterling 303-757-9914 CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Conduct Materials Pre-Construction Meeting	X	
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	X X X X	
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0° to 6° or greater) • Fabrication of bearing devices	X X X X	# # #
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures <input checked="" type="checkbox"/> CDOT Procedures <input type="checkbox"/> • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X X X	
9.8	Approve mix designs • Concrete • Hot mix asphalt	X X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	

CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate, Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	X	
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	X	
11.10	Complete and Submit CDOT Form 1212 - Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment	X	
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure	X	
11.14	Retain Final Version of Local Agency Contract Administration Checklist		X

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

33. EXHIBIT F – CERTIFICATION FOR FEDERAL-AID CONTRACTS

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

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

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

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

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

Required by 23 CFR 635.112

34. EXHIBIT G – DISADVANTAGED BUSINESS ENTERPRISE

1. Program Objective and Assurance:

It is the objective of the State to create a level playing field upon which Disadvantaged Business Enterprises (DBEs) can compete fairly for DOT-assisted contracts. By entering into this Agreement, the Local Agency hereby agrees to the following:

The Local Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of the DBE program or the requirements of 49 CFR part 26. The Local Agency shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Each contract the Local Agency signs with a subcontractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient 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.

2. DBE Contract Goals:

Each scope of work prepared to procure consultant services or construction of the Work shall be evaluated by the CDOT Regional Civil Rights Office to determine a contract goal. The Local Agency shall be responsible for ensuring that the contract goal is incorporated into the procurement advertisement and accompanied by either:

- a. For consultant services, CDOT's then current process for evaluating the Consultant's proposed DBE participation; or an alternative proposed by the local agency and approved by CDOT.
- b. For construction, the CDOT DBE Standard Special Provision and all related forms.

The Local Agency shall submit the Statement of Interest (consultants) and/or DBE Forms (Construction) to the CDOT Civil Rights and Business Resource Center for review and concurrence prior to award.

3. Compliance:

With the assistance of the Local Agency, the CDOT Regional Civil Rights Office shall oversee the subcontractor's performance toward the contract goal.

35. EXHIBIT H – LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

THE LOCAL AGENCY SHALL USE THESE PROCEDURES TO IMPLEMENT FEDERAL-AID PROJECT AGREEMENTS WITH PROFESSIONAL CONSULTANT SERVICES

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

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

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

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

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

- a. Qualifications,
- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services.

Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
6. Once a consultant is selected, the local agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
7. A qualified local agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the local agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 through 24-30-1408, 23 CFR Part 172, and P.D. 400.1, provide additional details for complying with the preceding eight (8) steps.

36. EXHIBIT I – FEDERAL-AID CONTRACT PROVISIONS

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

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

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring F1/WA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

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

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

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

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

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

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

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

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

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

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37. EXHIBIT J – 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).

Clear Air Act

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

Energy Policy and Conservation Act

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

OMB Circulars

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

Hatch Act

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

Nondiscrimination

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

ADA

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

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor

is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

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

Age Discrimination Act of 1975

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

23 C.F.R. Part 172

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

23 C.F.R Part 633

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

23 C.F.R. Part 635

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

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

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

Nondiscrimination Provisions:

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

i. Compliance with Regulations

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

ii. Nondiscrimination

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

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

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

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the

exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

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

Incorporation of Provisions §22

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

38. EXHIBIT K – SUPPLEMENTAL FEDERAL PROVISIONS

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

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

1. **Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
 - 1.1. **“Award”** means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:
 - 1.1.1. Grants;
 - 1.1.2. Contracts;
 - 1.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
 - 1.1.4. Loans;
 - 1.1.5. Loan Guarantees;
 - 1.1.6. Subsidies;
 - 1.1.7. Insurance;
 - 1.1.8. Food commodities;
 - 1.1.9. Direct appropriations;
 - 1.1.10. Assessed and voluntary contributions; and
 - 1.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

 - 1.1.12. Technical assistance, which provides services in lieu of money;
 - 1.1.13. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
 - 1.1.14. Any award classified for security purposes; or
 - 1.1.15. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
 - 1.2. **“Contract”** means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.
 - 1.3. **“Contractor”** means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
 - 1.4. **“Data Universal Numbering System (DUNS) Number”** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
 - 1.5. **“Entity”** means all of the following as defined at 2 CFR part 25, subpart C:
 - 1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
 - 1.5.2. A foreign public entity;

- 1.5.3. A domestic or foreign non-profit organization;
 - 1.5.4. A domestic or foreign for-profit organization; and
 - 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
 - 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
 - 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
 - 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
 - 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
 - 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
 - 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
 - 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
 - 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
 - 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
 - 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.

- 1.17 "Vendor"** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.
- 2. Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
- 3.1. SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 3.2. DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
- 4. Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
- 4.1.** The total Federal funding authorized to date under the Award is \$25,000 or more; and
- 4.2.** In the preceding fiscal year, Contractor received:
- 4.2.1.** 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 4.2.2.** \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 4.3.** The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
- 5. Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
- 6. Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.

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

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

- 7.1.1 Subrecipient DUNS Number;
- 7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
- 7.1.3 Subrecipient Parent DUNS Number;
- 7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
- 7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

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

- 7.2.1 Subrecipient's DUNS Number as registered in SAM.
- 7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

- 8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.
- 8.4 There are no Transparency Act reporting requirements for Vendors.

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

ITEM NO. 06C

ORDINANCE NO. 1.491

(TO BE CONTINUED TO NOVEMBER 7, 2016)



REQUEST FOR TOWN COUNCIL ACTION

TITLE: RESOLUTION NO. 16-064 – A Resolution Accepting the Conveyance of a Drainage Easement from Drake Cares #3, LLC, for Lot 8, Parker Hilltop Square – 1st Amendment

- | | |
|---|--|
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> ORDINANCE FOR 1 ST READING |
| <input type="checkbox"/> CONTRACT | <input type="checkbox"/> ORDINANCE FOR 2 ND READING |
| <input type="checkbox"/> MOTION | <input checked="" type="checkbox"/> RESOLUTION |

Tom Williams

Tom Williams, Director of Engineering

G. Randolph Young

G. Randolph Young, Town Administrator

ISSUE:

This item accompanies a resolution accepting conveyance of a drainage easement from covering drainage improvements proposed with the approved Site Plan for Lot 8, Parker Hilltop Town Square 1st Amendment.

PRIOR ACTION:

N/A

FUNDING/BUDGET IMPACT:

As the drainage improvements proposed within the easement will be the maintenance responsibility of the property owner, there is no financial impact to the Town.

BACKGROUND:

The Town's Stormwater criterion requires that drainage easements be dedicated for all storm drainage facilities located on private property. The drainage easements are necessary to ensure the long-term operation and maintenance of drainage infrastructure to minimize flooding and protect the quality of stormwater runoff.

The Engineering Department has reviewed and approved the construction drawings for the drainage facilities associated with an approved Site Plan for Lot 8, Parker Hilltop Town Square 1st Amendment. Since the drainage facilities are being constructed as part of a Site Plan process, and not a Plat, the easements need to be dedicated via separate instrument.

RECOMMENDATION:

Staff recommends that Town Council approve the resolution accepting the conveyance of a drainage easement from Drake Cares #3, LLC.

PREPARED/REVIEWED BY:

Alex Mestdagh, Senior Development Review Engineer; Jim Maloney, Town Attorney

ATTACHMENTS:

1. Vicinity Map
2. Resolution
3. Drainage Easement Agreement (7 pages)(Exhibit to the resolution)

RECOMMENDED MOTION:

"I move to approve Resolution No. 16-064, as a part of the consent agenda."



Drainage Easement
Acceptance
Vicinity Map

RESOLUTION NO. 16-064, Series of 2016

TITLE: A RESOLUTION ACCEPTING THE CONVEYANCE OF A DRAINAGE EASEMENT FROM DRAKE CARES #3, LLC, FOR LOT 8, PARKER HILLTOP TOWN SQUARE – 1ST AMENDMENT

WHEREAS, the Town Council of the Town of Parker desires to accept the grant of an easement for the purpose of the maintenance of a drainage pipe and appurtenant drainage facilities;

WHEREAS, Section 1.06.010 of the Town of Parker Municipal Code requires the acceptance of a conveyance of real property to the Town be effectuated by resolution; and

WHEREAS, the Town Council of the Town of Parker desires to accept the grant of an easement specified hereinbelow to the Town by this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The Town Council of the Town of Parker hereby accepts the conveyance of certain property interests for the purpose of the maintenance of a drainage pipe and appurtenant drainage facilities from Drake Cares #3, LLC, for Lot 8, Parker Hilltop Town Square - 1st Amendment, as provided in the Drainage Easement Agreement attached as **Exhibit 1** and incorporated by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

RESOLVED AND PASSED this _____ day of _____, 2016.

TOWN OF PARKER, COLORADO

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

DRAINAGE EASEMENT AGREEMENT

THIS DRAINAGE EASEMENT AGREEMENT (the "Easement Agreement") is dated this 9th day of September, 2016, by Drake Cares #3 LLC, ^{a Colorado limited liability company} having an address at 496 S. Broadway, Denver, CO ("Grantor"), and the Town of Parker, a Colorado home rule municipality, having an address of 20120 East Mainstreet, Parker, Colorado 80138 ("Grantee").

WHEREAS, Grantee desires to acquire an easement for the purpose of the maintenance of a drainage pipe and appurtenant drainage facilities on and through the property more particularly described and depicted in **Exhibit A** ("Easement Property"), attached hereto and incorporated herein by this reference; and

WHEREAS, Grantor is willing to grant an easement to Grantee for the aforesaid purposes on the terms and conditions set forth hereinbelow.

NOW, THEREFORE, for good and valuable consideration by Grantee to Grantor, the covenants of Grantee herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, and for and in consideration of the easement rights herein granted and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantee does hereby covenant and agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey unto Grantee, its successors, assigns, lessees, licensees and agents, an easement under and through the Easement Property, for the purpose of providing the maintenance of a drainage pipe and appurtenant drainage facilities. Grantee shall also have the specific rights of ingress and egress, consistent with this Easement Agreement, for the construction, reconstruction, operation and maintenance of a drainage pipe and appurtenant drainage facilities, consistent with the easement provided herein. Subject to the other terms and conditions of this Easement Agreement, Grantee shall also have the right to remove impediments to operation and maintenance of the Easement Property such as trees, asphalt and sidewalks. Grantee further agrees all construction, reconstruction, operation, maintenance, removal and any other activities which disturb the Easement Property will be coordinated with Grantor so as to minimize any disruption to Grantor's property.

2. Unencumbered Title. Grantor warrants that the Easement Property granted herein is granted free and clear of all liens and encumbrances.

3. Operation and Maintenance.

a. The operation and maintenance of the drainage facilities described herein and located within the Easement Property shall be the responsibility of the Grantor; provided, however, that Grantee shall have the right to maintain the Easement Property in the event Grantee, in its sole discretion, determines to enter the Easement Property for the operation and/or maintenance of the Easement Property as set forth in subsection b. hereinbelow. The Grantor acknowledges and agrees that the Grantee has the right to enter the Easement Property to maintain and operate the drainage

facilities covered by Chapter 4.08 of the Parker Municipal Code or to maintain and operate the drainage facilities in the manner described herein.

b. If Grantor fails to adequately maintain the drainage facilities located within the Easement Property, and within fourteen (14) days after the date of written notice from Grantee, fails to correct the maintenance problem, or fails to begin to clean, cure or correct such problem within fourteen (14) days if such problem cannot be reasonably cleaned, cured or corrected within fourteen (14) days, and fails to diligently prosecute such cleaning, cure or correction to completion, then Grantee may do so as provided herein. Notwithstanding the foregoing, Grantee may, in the event of an emergency, as determined by Grantee in its sole discretion, clean, cure or correct any damage caused by Grantor's failure to adequately maintain the drainage facilities located within the Easement Property. The Grantor shall reimburse the Grantee for the cost of such maintenance to the extent that (i) the drainage facilities and/or the type of maintenance performed by Grantee are not covered by Chapter 4.08 of the Parker Municipal Code, as amended, or (ii) if the drainage facilities and/or the type of maintenance performed by the Grantee is covered by Chapter 4.08 of the Parker Municipal Code, as amended, and the Grantee determines in its sole discretion that there are not sufficient funds available for such maintenance. If Grantor fails to reimburse Grantee for the cost of such maintenance, within thirty (30) days after receipt of an invoice from Grantee describing the corrective or maintenance action taken, the unpaid amount shall constitute a lien on the Easement Property until paid in full, with priority over all other liens, except general tax liens, which liens shall be certified to the County Treasurer and collected in the same manner as other taxes are collected. Grantor further agrees that Grantee may also pursue any and all other remedies available at law or in equity.

4. Grantor Defined. The word "Grantor" as used herein, whenever the context requires or permits, shall include the heirs, personal representatives, beneficiaries, successors, grantees and assigns of the owners of the land through which the easement runs, or the respective owners from time to time of portions thereof. The burdens and benefits of this Easement Agreement shall be deemed covenants running with said easements and said land. Notwithstanding any contrary provision in this Easement Agreement, however, any obligation under this Easement Agreement which is to be performed by the owner of any land which is burdened by this Easement Agreement shall be enforceable only against the then owner of such land, and not against any such owner's predecessors in interest.

5. Covenants of Grantee. Grantee hereby represents, covenants and warrants in favor of Grantor, and its successors and assigns, as follows:

a. Grantee shall protect the Easement Property, and the adjacent lands of Grantor over which Grantee has rights of ingress and egress, from damage caused, in whole or in part, by acts or omissions of Grantee, its employees, agents, contractors, subcontractors, assigns, lessees, licensees and agents.

b. Grantee shall not cause or permit to be caused by any of its employees, agents, contractors, subcontractors, successors, assigns, lessees or licensees, any hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), pollutants or contaminants, as defined by CERCLA, or hazardous waste, as defined by the Resource, Conservation and Recovery Act ("RCRA"), including, but not limited to, asbestos and/or urea

formaldehyde, or any pollutants or toxic pollutants as defined by the Clean Water Act, and any amendments thereto, to be dumped, spilled, released, permanently stored or deposited on, over or beneath the Easement Property or any other lands owned by Grantor.

6. Retained Rights. Grantor shall have all rights to the Easement Property not granted hereby.

7. Miscellaneous.

a. Except as otherwise expressly provided herein, all provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

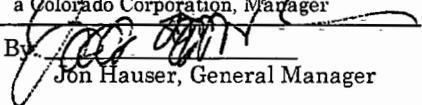
b. This easement constitutes all of the agreements, understandings and promises between the parties hereto, with respect to the subject matter hereof.

c. This easement shall be of no force and effect until this easement is duly and validly executed by all parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the date and year first above written.

GRANTOR:

Drake Cares #3 LLC, a Colorado limited liability company
By: DRAKE DEVELOPMENTS LLC,
a Colorado limited liability company, Manager
By: ~~DRAKE REAL ESTATE SERVICES, INC.,~~
a Colorado Corporation, Manager

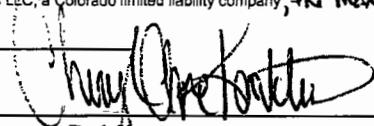
By: 
Jon Hauser, General Manager

STATE OF COLORADO)
City &) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 9th day of September,
20 16 by Jon Hauser, as General Manager of

of Drake Real Estate Services, Inc., a Colorado corporation, the Manager of Drake Developments LLC, a Colorado limited liability company, the manager of Drake Cares #3 LLC, a Colorado limited liability company
My commission expires: 2/27/2017

(S E A L)


Notary Public CHERYL ANNE KARKLIN

CHERYL ANNE KARKLIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 20124072043
MY COMMISSION EXPIRES FEBRUARY 27, 2017

GRANTEE: TOWN OF PARKER

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

PARCEL DESCRIPTION:

A PORTION OF LOT 8, PARKER HILLTOP TOWN SQUARE – 1ST AMENDMENT, RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER OFFICE ON APRIL 4, 2008 AT RECEPTION NO. 2008024417 , LOCATED IN THE SOUTHEAST ONE QUARTER OF SECTION 22, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF PARKER, COUNTY OF DOUGLAS, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE SOUTH 89°24'14" WEST ALONG THE NORTH LINE OF SAID LOT 8, A DISTANCE OF 40.00 FEET TO **THE POINT OF**

BEGINNING;

THENCE SOUTH 00°22'08" EAST, A DISTANCE OF 40.00 FEET;

THENCE SOUTH 89°23'24" WEST, A DISTANCE OF 88.58 FEET;

THENCE NORTH 00°00'00" WEST, A DISTANCE OF 3.50 FEET;

THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 17.30 FEET;

THENCE NORTH 00°00'00" WEST, A DISTANCE OF 36.34 FEET TO A POINT ON SAID NORTH LINE OF LOT 8;

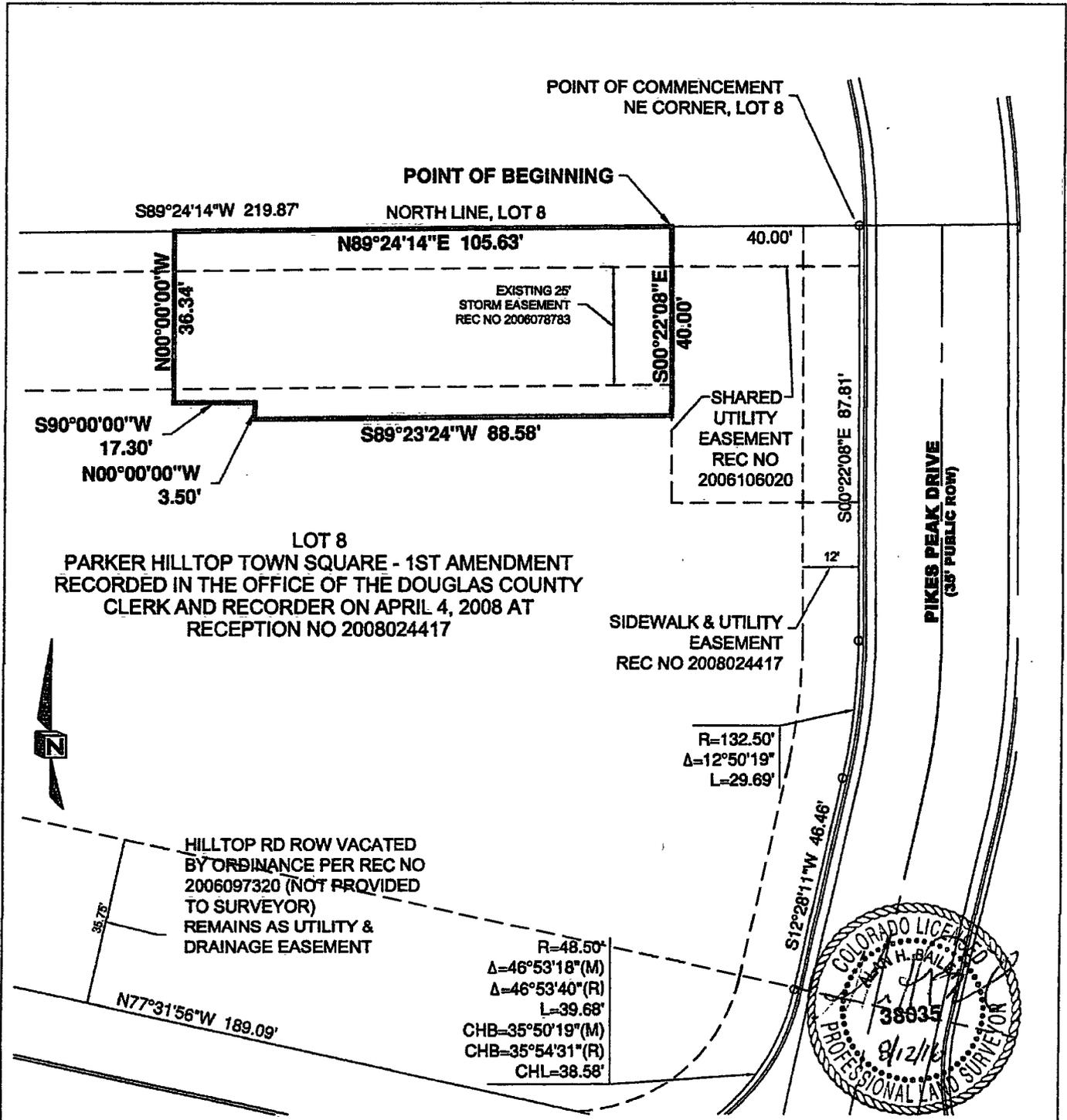
THENCE NORTH 89°24'14" EAST ALONG SAID NORTH LINE, A DISTANCE OF 105.63 FEET TO **THE POINT OF BEGINNING.**

CONTAINING 4,169 S.F. (0.096 ACRES) MORE OR LESS

PREPARED BY:
ALAN H. BAILEY, PLS 38035
FOR AND ON BEHALF OF:
BAILEY PROFESSIONAL SOLUTIONS, LLC
5737 SOUTH KENTON STREET
ENGLEWOOD, CO 80111
303-587-1672



EXHIBIT A



SCALE:	1"=30'	 <p>BAILEY PROFESSIONAL SOLUTIONS</p> <p>BAILEY PROFESSIONAL SOLUTIONS, LLC 5737 SOUTH KENTON STREET ENGLEWOOD, CO 80111 303.587.1672 BAILEYPROFESSIONALSOLUTIONS.COM</p>
PROJECT:	HCI-16-01	
DRAWING FILE:	NON-EXCLUSIVE EASEMENT.DWG	
DATE:	AUGUST 11, 2016	
DRAWN:	AHB	
CHECKED:	AHB	

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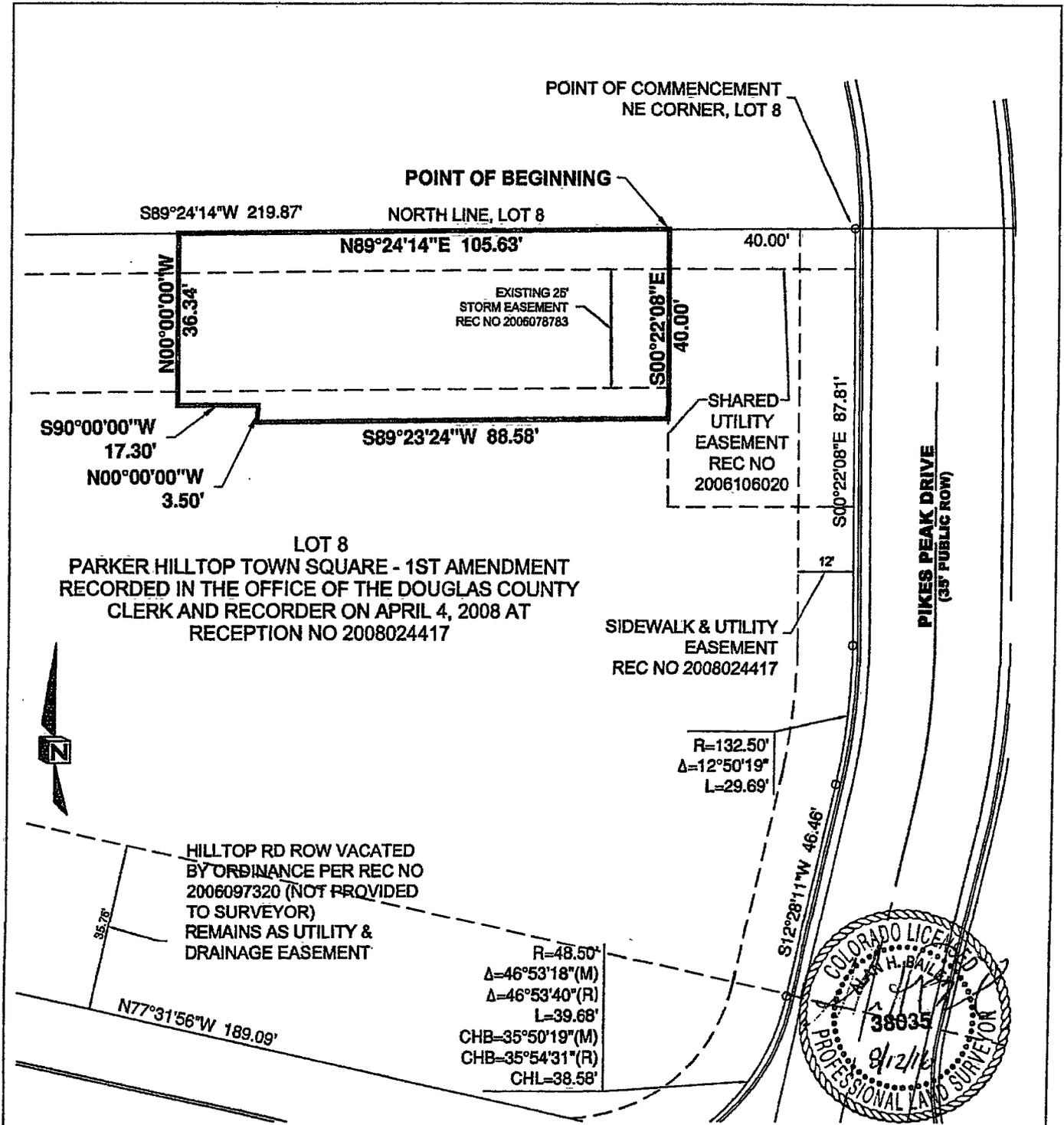
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ENGLEWOOD, CO 80111
303-587-1672



EXHIBIT A



THIS IS NOT A LAND SURVEY PLAT AND ONLY REPRESENTS THE ATTACHED PARCEL DESCRIPTION.

SCALE:	1"=30'
PROJECT:	HCI-16-01
DRAWING FILE:	NON-EXCLUSIVE EASEMENT.DWG
DATE:	AUGUST 11, 2016
DRAWN:	AHB
CHECKED:	AHB



BAILEY
PROFESSIONAL
SOLUTIONS

BAILEY PROFESSIONAL SOLUTIONS, LLC
5737 SOUTH KENTON STREET ENGLEWOOD, CO 80111
303.587.1672 BAILEYPROFESSIONALSOLUTIONS.COM



TOWN ADMINISTRATOR'S REPORT

September 2016



PARKER
C O L O R A D O

Town of Parker
20120 E. Mainstreet
Parker, CO 80138

Tel: 303.841.0353
Fax: 303.805.3153
townadministrator@parkeronline.org



New Format for Mayor's Holiday Lighting Taking Shape

Staff is working on a renewed look and feel for The Mayor's Holiday Lighting on Friday, Nov. 25 and has secured Xfinity and Swingle Lawn, Tree and Landscape Company as co-presenting sponsors.

The event start time will be moved from 5 p.m. to 5:30 p.m. and the park lighting will kick off the event, rather than the grand finale. Following the park lighting, attendees will be entertained with holiday choirs, Santa interactions, roaming characters, a scavenger hunt and more. Additional details will be coming soon!



COMMUNICATIONS

Project Updates

Parker FAM Trips

Staff is in the process of designing and pitching holiday media FAM trips to bring area journalists and bloggers to Parker to experience some of our festive holiday events and activities in November and December.

Upcoming Social Media Contest

Staff will be kicking off a social media contest in mid-November. As part of this fun contest, we'll be encouraging people to post their #MemoriesMadeinParker during the holidays. More information to come!

Town Promotional Video

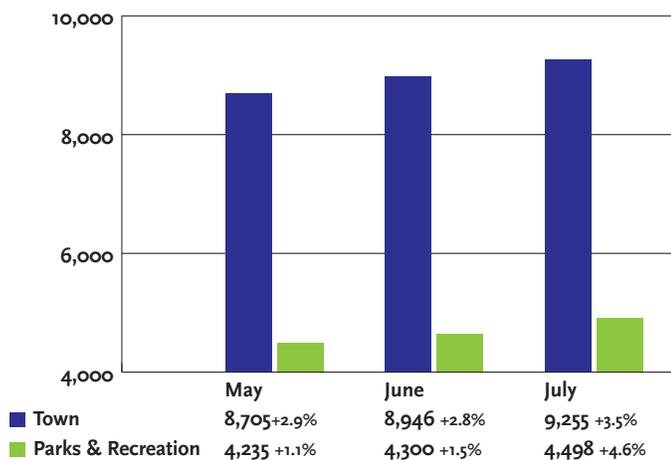
A Visit Parker video is currently under development in collaboration with Barnhart Communications. The video will be three to five minutes in length and will be featured on the Town website. In addition, shorter edits of the video will be completed to push out on Parker's social media channels.

Carriage Parade and Carriage Rides Sponsorship Update

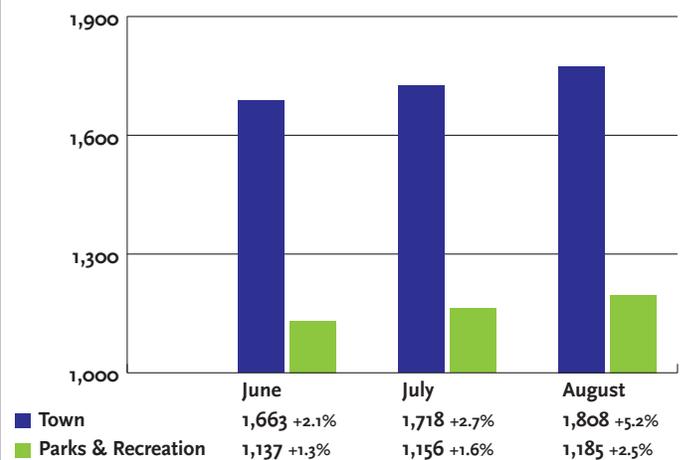
There's still more than two months to go, but staff has already secured two-thirds of the available event sponsorships for the Christmas Carriage Parade and has sold out of sponsorship spots for the Holiday Carriage Rides!

Social Media Corner

Facebook Followers - Monthly Comparison



Twitter Followers - Monthly Comparison





Comprehensive Planning

New RTD Route 483 Improves Bus Service in Parker!

Did you know that RTD's Route 483 now provides all-day weekday service in Parker to both the Lincoln Light Rail Station and the 9-Mile Station (I-225 and Parker Road)? Bus service to the Lincoln Station is provided every 30 minutes during peak travel times (morning and evening) and every 60 minutes during mid-day hours to the Nine-Mile Station. This additional service provides a significant increase in local and regional transit service for our citizens and confirms our commitment for continuing a strong partnership with RTD.

Parker Road Corridor Plan

The Town and community planning consultant Logan Simpson held Parker Road Corridor Plan public workshops in late August as a part of Phase 1 of this important project. The workshops were well attended by a mix of residents, business owners and commuters who actively participated in a conversation about the desired future character of this corridor. The workshop participants, along with the over 360 online survey participants and the many who have participated through event outreach, will help guide this Parker Road visioning process. All members of the public and business community are encouraged to visit the project website at www.ParkerRoadPlan.com to get the latest updates, **fill out the online survey #2** and continue providing comments about the corridor.

Downtown Parking Study

The Town continues to work with consultant Kimley Horn on the development of a downtown parking plan that will provide policy, guidance and options for the efficient management of parking in our downtown area. Kimley Horn and the Town continue to reach out to stakeholders and held a well-attended informational open house in August where additional public input was received. Kimley Horn has also completed a field analysis of actual parking usage, peaks and length of stay for the downtown on a weekday and a Saturday and Sunday. The results of this parking analysis will help guide the resulting recommendations from this Plan. The public and business community are encouraged to visit the project website at www.ParkerOnline.org/ParkingStudy to take a brief online survey.

COMMUNITY DEVELOPMENT

Major Administrative Approvals - August 2016

Watermark II 11099 Dransfeldt Road

Proposal: Site Plan for a new 294-unit multifamily development on 18.58 acres located north of the existing Target between Dransfeldt Road and Twenty Mile Road.

TRAKiT ID: SP16-013 **Approval Date:** Aug. 3

Town of Parker Cherry Creek and E-470

Proposal: New Town-owned park with an 18-hole disc golf course, 5-acre dog park, trailhead and parking located north of Pine Lane and west of Cherry Creek.

TRAKiT ID: SP16-026 **Approval Date:** Aug. 22

Arby's 9831 S. Parker Road

Proposal: Exterior upgrades and improvements to the existing Arby's located on the west side of Parker Road north of Lincoln Avenue.

TRAKiT ID: SP16-027 **Approval Date:** Aug. 18

Building Division Statistics - August 2016

Single-Family Permits: 27
(180 total in 2016)

\$9,028,776 valuation
(\$65,385,618 total in 2016)

Multi-Family Permits: 0
(0 total for 0 units in 2016)

\$0 valuation (\$0 total in 2016)

Commercial Permits (New): 0
(22 total in 2016)

\$0 valuation
(\$35,510,373 total in 2016)

Commercial Permits (Remodel): 76
(458 total in 2016)

\$1,769,774 valuation
(\$11,870,748 total in 2016)

Other Permits: 205
(1,484 total in 2016)

\$1,022,347 valuation
(\$7,319,928 total in 2016)

Total Permits: 308
(2,144 total in 2016)

\$11,820,897 valuation
(\$120,086,667 total in 2016)

Inspections: 2,554
(18,256 total in 2016)

2016 Total Valuation:
\$120,086,667

COMMUNITY DEVELOPMENT - CONT'D

Development Review - Project Updates

Major Active Development Projects

- American Academy – Site Plan
- Blue Mountain Storage - Site Plan
- Burger King Remodel – Site Plan
- Cherrywood Commercial Hotel – Site Plan (**New Project**)
- Cherrywood Commercial West Retail Building – Site Plan (**New Project**)
- Cherrywood Commercial East Retail Building – Site Plan (**New Project**)
- Cottonwood Highlands Filing 2 Final Plat
- Hickory House Addition
- Lot 10 Dransfeldt Place Boat and RV Storage (**New Project**)
- Meadowlark Zoning and Annexation – New Residential
- Olde Town Preliminary Plan – New Residential (**New Project**)
- Parker Hilltop Health Care/Emergency Care Clinic
- Parker Keystone Commercial – Site Plan/Replat
- Parker Taphouse
- Saint John Extended Stay Hotel – Site Plan
- Twenty Mile Gun Range – Site Plan
- Westcreek Multifamily

Major Projects Under Construction

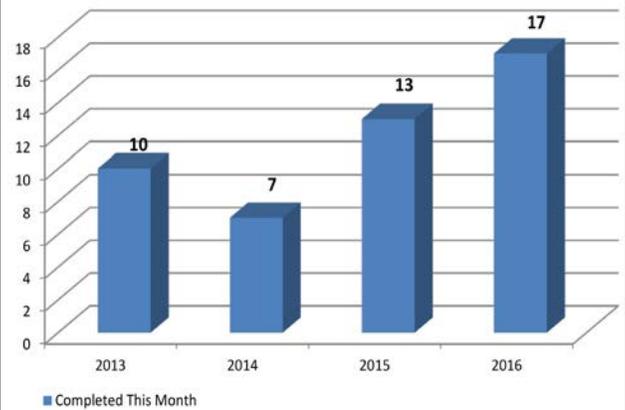
- Advanced Auto – Hess Road and Parker Road
- Assisted Living Facility – Crown Point
- Automotive Service and Sales Phase I – Parker Auto Plaza
- Boondock's Food & Fun Center – Crown Point
- CVS Pharmacy – Stonegate
- Douglas County Library – Mainstreet
- Enclave at Cherry Creek Multi-Family
- Express Wash – Crown Point
- Gander Mountain – Crown Point
- Mini U Storage – Dransfeldt
- Park 64 Multi-Family
- Parker Flats Multi-Family
- Performing Arts Charter School – Compark
- Rehab Center – Compark
- The Schoolhouse Non-Historic Gym Demolition
- Your Storage Center – Polo Business Park
- Vantage Point Multi-Family

Project Focus: Cherrywood Commercial Hotel

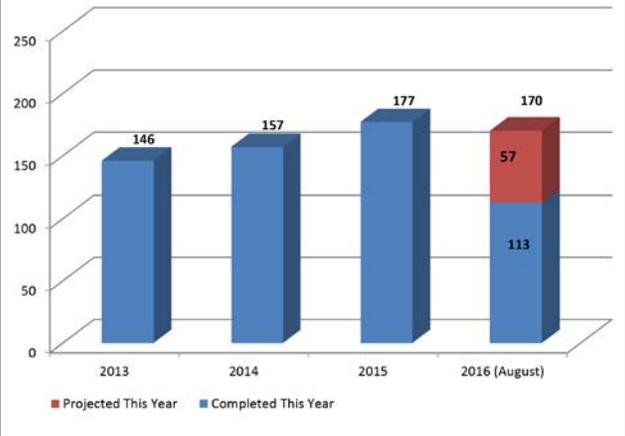
Currently under review at the southeast corner of E-470 and Jordan Road is a 59,914-square-foot, 104-room hotel building. The proposed La Quinta hotel will be a four-story building with an exterior using multiple colors of ceramic panels, EIFS and metal accents.



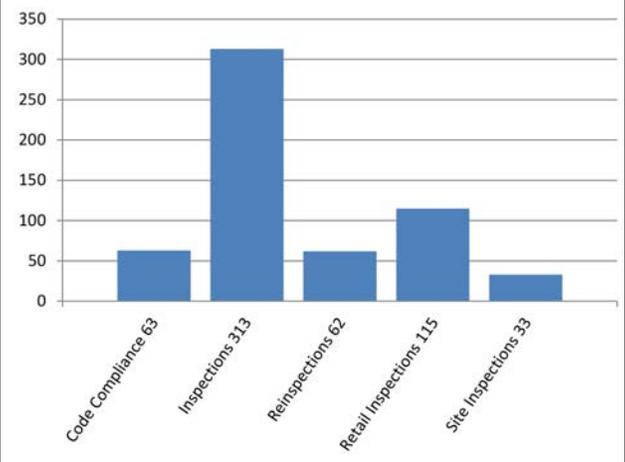
Development Review Submittals - August 2016
(annexation, site plan, subdivision, zoning)



Development Review Submittals - Yearly Projection
(annexation, site plan, subdivision, zoning)



Neighborhood Services Statistics - August 2016





CULTURAL DEPARTMENT

August Box Office Highlights

- We are thrilled to report that Aug. 1, the first day of individual ticket sales to the general public for Parker Arts' 2016/2017 season, broke all previous one-day sales records in their 5-year history!
- In just one day, Parker Arts grossed \$31,772, with a total of 892 seats purchased in 259 separate orders.
- This is more than double the sum collected last year on the first day of non-member sales for the 2015/2016 season, which totaled \$14,989 with 161 separate orders.
- This year's sales were spread across 39 separate titles, which speaks well of the diversity of the programming being offered this season.

Top-Selling Shows on Opening Day	
Monty Python's SPAMALOT	139 seats
Disney's Beauty and the Beast	117 seats
Wynonna and The Big Noise <i>(over 96% sold out as of Aug. 31)</i>	83 seats
Wayne Brady <i>(over 68% sold out as of Aug. 31)</i>	49 seats
The Manhattan Transfer with Take 6 <i>(over 60% sold out as of Aug. 31)</i>	42 seats
Cirque Montage	41 seats



Education Update

- Parker Arts and Inspire Creative presented Thoroughly Modern Millie Junior. This new summer offering brought in 46 teen actors and nine teen production crew from Parker, Aurora, Centennial, Englewood, Lone Tree, Highlands Ranch and Denver.
- As of the start of the new school year (Aug. 30), Parker Arts student matinee series are 70 percent sold out with limited seats remaining for school groups.



Operations

- Parker Arts opened its inaugural Plaza Party at the Wine Walk on Aug. 26. The downtown crowd rocked out to the hits of the 90s with the band JV3 and enjoyed the Parker Artist Guild's skillful wine glass painting. A few lucky participants even made their way into Ruth Memorial Chapel for a quick tour and got to ring its historic church bell.
- Be on the lookout for this free public event during Wine Walks next year.

Community Funding

August Membership Report

- Parker Arts brought in \$5,100 in memberships for August, setting a new record for the month since the program started in 2014.

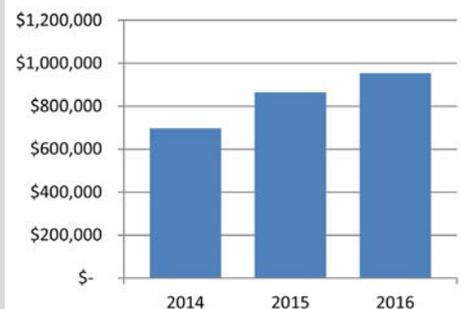
Sponsorships

- Dan Farland, State Farm agent, will be increasing his annual sponsorship to \$5,000 and will sponsor the 2016/2017 theater and musical performances at PACE Center and The Schoolhouse.

Grants

- Parker Arts received a 99/100 score on its Colorado Creative Industries grant review. This is an exceptionally high ranking and reviewer comments shared several accolades. This grant application is to renew an annual \$10,000 in support for programs.

YTD Ticket Revenue - as of August 31





ECONOMIC DEVELOPMENT

Business Retention

Economic Development staff has conducted 44 formal business retention visits in 2016. Councilmembers have attended 34 percent of these visits.



Gander Mountain Opens

Gander Mountain celebrated the grand opening of its new Parker location Sept. 15 through 18. The 57,600-square-foot store located at the northeast corner of E-470 and Parker Road is the third Gander Mountain in Colorado, joining existing locations in Aurora and Thornton.

ICSC Western Conference

Town staff attended the Western Conference of the International Council of Shopping Centers to promote Parker and explore opportunities with west coast retailers looking to expand into new markets.

Among others, successful introductions were made with several sports retailers (Sports Authority replacements) and numerous quick-service and specialty restaurants groups.

More than 6,000 retailers, developers and commercial brokers attend the event, and attendance is a significant aspect of meeting the department's goal of regional and national promotion.

Employment Trend



Sales Trend



Expense Trend



Profitability Trend





ENGINEERING AND PUBLIC WORKS

Roadway Capital Improvement Projects

EastMain Development Phase 2

- Construction of a new roadway through the EastMain Park Plaza site and improvements to the adjacent roadways

The roadway improvements associated with the project are largely complete. Work is currently focused on streetscaping improvements, including lighting, landscaping, and irrigation. All work is scheduled to be completed in the first half of September, in advance of the Library's anticipated opening on Sept. 24.

Crown Crest Boulevard/Parker Adventist Hospital Traffic Signal

- Construction of a traffic signal at the Crown Crest Boulevard at Parker Adventist Hospital/Life Time Fitness access intersection.

The project was competitively bid in August with Town Council award anticipated for September. The traffic signal is anticipated to be operational by the end of 2016.

Cottonwood Drive Widening

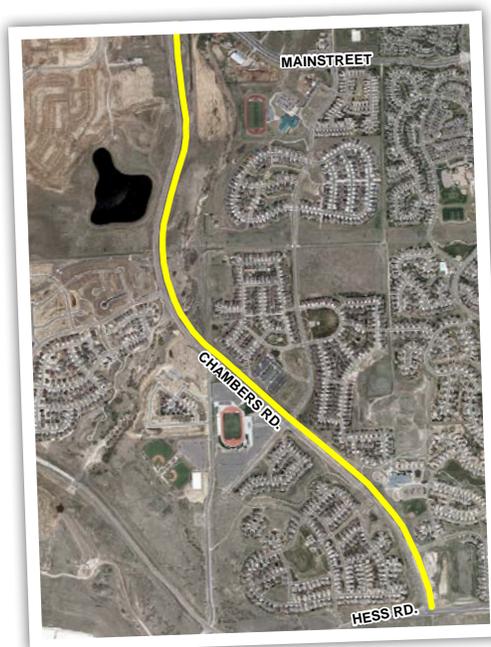
- Widening of Cottonwood Drive between Jordan Road and Cottonwood Way

The funding for design of this project was appropriated as part of the 2016 budget. Design work has begun. It is anticipated that the design will be completed by late 2016 with construction anticipated for 2017, pending approval of the 2017 budget.

Chambers Road Widening

- Widening of Chambers Road between Hess Road and Mainstreet

The roadway construction is underway, including earthwork operations and storm drainage improvements. Bridge construction began in May and the southern portion of the project was paved in August. The roadway construction is scheduled to conclude late in 2016 with median landscaping taking place in 2017 (pending 2017 funding). Funding for this project is a joint effort with Douglas County and the Douglas County School District. ▼



Annual Roadway Maintenance Projects

Townwide Concrete Repair

- Work consists of miscellaneous sidewalk, concrete pavement and curb and gutter repairs throughout Town

The competitive bidding process was completed in April and the contract awarded by Town Council award in May. The contractor on the project began work in late July, and work is anticipated to continue into November.

Roadway Reconstruction

- Street repairs to various locations in Town

Construction on the project is underway with the full-time Mainstreet lane reduction to one-lane each direction completed in August. The project also includes concrete pavement maintenance and diamond grinding on Jordan Road and Mainstreet west of Jordan which will continue into September.

Roadway Resurfacing

- Thin overlays, chip seal and slurry seal (pavement preservation) work in various locations in Town

The asphalt mill/overlay and slurry/chip seal portions of the project commenced in June and were substantially completed in July. Pavement marking work and minor contract punchlist work was completed in August.

ENGINEERING AND PUBLIC WORKS - CONT'D

Recreation Improvements

East-West Trail - Phase II

- Construction of a multi-use recreational concrete trail between Newlin Gulch Boulevard and Chambers Road within and adjacent to the PSCo/Xcel powerline corridor

The competitive bidding of the project was completed in June with Town Council awarding the project on June 20. Construction began in August and will be completed in late 2016.

East-West Trail - Phase III

- Construction of a multi-use recreational concrete trail between the Motsenbocker/Todd intersection to the Cherry Creek Trail within and adjacent to the PSCo/Xcel powerline corridor

Design on the project has started and preliminary discussions with PSCo/Xcel related to a required license agreement are underway. Construction is anticipated for 2017.

Bradbury Trail

- Construction of a missing segment of trail between Gold Rush Elementary School and Hitching Post Circle

Construction is complete.

The Plaza on Main

- Design and construction of a public park and plaza located at the NE corner of Mainstreet and PACE Center Drive

The project is currently under construction and is anticipated to be complete in late 2016.

Stroh Soccer Park Parking Lot

- Construction of an additional parking lot on the west side of the soccer park

Construction was completed in August during the off-season at the park and the parking lot opened for use by the public. Minor remaining work is anticipated to be completed in early September.

Dog/Disc Golf Park

- Construction of a combination dog park and disc golf park on Pine Lane west of Cherry Creek

The project is currently being competitively bid with a bid opening scheduled for Sept. 21 and is tentatively scheduled for Town Council award in October. Pending award by Town Council, the project is scheduled to be complete in the summer of 2017.

Stormwater CIP Projects

Cherry Creek Restoration at Norton Open Space

- Channel stabilization improvements approximately 2,000 feet downstream of Cottonwood Drive to the county line

This project has reached substantial completion after follow-up activities were finished in August.

Newlin Gulch at East-West Trail

- Grade-control structure and associated improvements on Newlin Gulch at the East-West Trail crossing

A contractor has been selected and construction will begin in August. This project will be constructed in conjunction with the East-West Trail Phase II and is anticipated to be complete in the fourth quarter of 2016.

Crown Crest Boulevard Traffic Signal Planned

Following several months of negotiations, the Town has acquired the needed easements to allow for construction of a proposed traffic signal on Crown Crest Boulevard at the access intersection for Parker Adventist Hospital and Life Time Fitness.

Competitive bidding of the project was completed in August and is anticipated to be reviewed/awarded by Town Council in September. If all goes as planned, the traffic signal will be operational by the end of 2016.





PARKS AND RECREATION

Kids' Zone Summer Olympics Camp

- Fourteen participants experienced being Olympians in a variety of sports throughout this weeklong camp. Track and field, basketball and soccer were played along with a few others.
- Participants were taught about Olympic traditions, where they started and what they mean.
- Every little Olympian went home with a gold medal and made their very own Olympic torch to carry with them.



Recreation Center Update

- The Recreation Center has averaged nearly 5,350 drop-in admissions per month so far in 2016, which amounts to about \$24,131 in monthly revenue.
- In August, 190 Annual Membership passes were sold, the most in one month during all of 2016.
- The second-highest selling pass was the 10-visit, with 125 sold.

Parker Fieldhouse Day Camp Garden

- The Day Camp program rented a plot at Flat Acres Farm for the spring and summer to teach campers how food makes it from the gardens and farms to our tables.
- Campers learned to prepare soil, plant seeds and care for the various plants by watering, weeding and harvesting the vegetables.
- So far, radishes, leaf lettuce, carrots and pumpkin seeds have been grown, cared for and eaten by participants.
- Next, participants will be shown how to dry out seeds so that they can be planted next spring.
- The garden has been a huge success with participants and has provided an opportunity for hands-on learning and demonstration.
- A big shout out to Assistant Day Camp Director Corey Hamsmith for overseeing this project and making sure the garden was taken care of.

Fitness and Wellness

- 198 kids swam, biked and ran during this annual Kids' TRY-athlon event on Aug. 6. The event continues to be one of Parks and Recreation's most popular.
- 273 participants participated in the annual So Long to Summer race on Aug. 13 at Salisbury Park. 10K, 5 mile, 5K and 1 Mile Family Fun Trek courses were set up for this year's event, offering an option for everyone. The pancakes were a huge hit, as always.
- 81 youth participated in the Speed and Agility Camps/Run Club for Girls.
- 12 Run Club for Girls participants ran the So Long to Summer 5K to complete their first race.

Fieldhouse Maintenance

The Parker Fieldhouse was closed for annual maintenance from Aug. 29 to Sept. 5 for the following:

- Carpet was replaced in the offices and fitness loft. Rubber flooring was installed in the weight area of the fitness loft and gymnasium entry.
- Activity rooms were painted and new TVs and dry erase boards were mounted.
- The artificial turf underwent seam repairs and a thorough grooming, including even infill distribution and disinfection.
- The sport court is now painted with lines for basketball use and received new tiles and lighting.
- Gym floor was resurfaced and new lighting was installed.
- All holds on the climbing wall were stripped and cleaned thoroughly. New routes were set.



POLICE DEPARTMENT

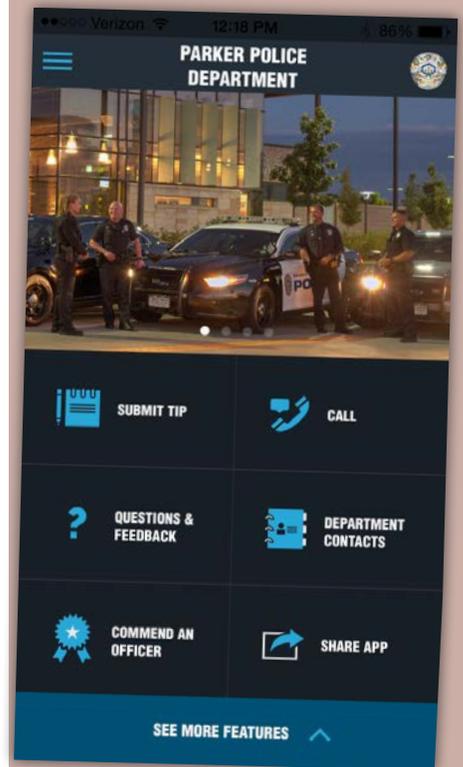
Media Update

- Commander Chris Peters and Officer Chris Kozuch were live on the Fox 31 and Channel 2 morning shows in August. They were set up in a school zone (see below) and did interviews all morning reminding drivers to slow down in the school zones with school back in session.
- The Parker Chronicle wrote an article about the national review of Parker PD's body worn camera policy. In addition, a separate article was written on the impact body worn cameras have had on police officers on the street, featuring Officer Dawn Cashman.
- The Town of Parker was named the seventh safest city in Colorado by Protection One Security Solutions. The report was based on the 2014 FBI Uniform Crime Report, which used violent and property crime rates to determine the rankings.
- The Christian Science Monitor did a story on body worn camera policies titled, "The Rise of Body Worn Cameras; Who's Doing it Right." The Parker Police were highlighted as scoring the best of the 50 agencies reviewed.

Check Out the New Parker Police App!

The Parker Police Department has launched its new mobile app, MyPD. The app will increase the accessibility and communication with the police department for Parker residents.

Since the launch announcement on social media and in the Talk of the Town newsletter, the app has been downloaded more than 1,000 times.



POLICE DEPARTMENT - CONT'D

Parker "Pullice"

The Parker "Pullice" team raised more than \$2,600 for the Special Olympics Colorado Plane Pull event. The "Pullice" team was the top law enforcement fundraiser in the competition, led by SOCO Parker Power athlete Amanda Wilson, the top individual fundraiser. The eight-person team pulled the 164,000-pound jet 12 feet in seven seconds.



Y.E.S.S. Instructor Academy Graduate

Student Resource Officer Craig Dvorak graduated from the 2016 Youth Education and Safety in Schools (Y.E.S.S) Instructor Academy. Officer Dvorak will teach 7th and 8th grade classes at both Sierra and Cimarron Middle Schools as part of their health classes. He will also teach an abbreviated version to Cimarron 6th graders and assist with a few 9th grade classes at Cimarron.



Illegal Dumping

On Sept. 5, officers responded to Parker Storage, where they learned that a person had illegally dumped 300 gallons of a chemical sealant in the waterway. The sealant should have been dumped or stored in approved barrels. The EPA is currently working on testing the land.



Major Parker Road Accident

- On Aug. 31, Parker PD wrote a letter to thank all of the residents that stopped to assist with the fatal accident on Parker Road that occurred Aug. 27. There were many people who stopped and assisted the individuals before first responders arrived, as well as individuals who assisted officers and medical personnel when they arrived on scene.
- In addition, PD asked for the public's assistance in locating an individual who assisted commander Doreen Jokerst at the scene. This Facebook post was seen by more than 67,000 people. Commander Jokerst was on Channels 4 and 9 for this story. The individual saw the story on Channel 4 and responded.
- In light of the number of people who witnessed and stopped to assist with this crash, Parker PD also posted tips on its Facebook page on how to emotionally deal with a critical incident. This post was seen by nearly 10,000 people and garnered many favorable comments about the department's concern and caring for the residents of Parker.

Other Updates

- On Sept. 2, Parker Police Officers assisted the Douglas County Sheriff's Office with a suicidal man with a gun. This resulted in several schools, businesses and Parker Adventist Hospital being placed on lockout. DCSSO Deputy Dan Brite was critically shot and is still in the ICU recovering. After the suspect went mobile in his RV, he continued to shoot at officers and civilians. The threat was ended after he was fatally shot by a Parker Police Officer on Crown Crest Boulevard.
- Parker Detectives conducted a small liquor compliance check on random liquor license holders within Parker. In total, 10 licensees were checked and two establishments sold alcohol to an underage buyer. PD had one buyer/volunteer at the age of 19 years old.
- Over the Labor Day weekend, Parker PD performed a DUI saturation that resulted in one DUI arrest on Sept. 5. A notification was posted on Facebook Friday afternoon to alert residents of the upcoming saturation.





PARKER
C O L O R A D O

ITEM NO: 8A
DATE: 10/17/2016

REQUEST FOR TOWN COUNCIL ACTION

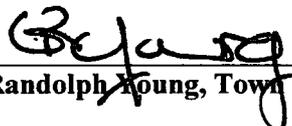
TITLE: ORDINANCE NO. 3.325

A Bill for an Ordinance Zoning Certain Property Within the Town of Parker, Colorado, Known as the Meadowlark Property to PD-Planned Development District Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform

- | | | |
|--|---|-------------------------------------|
| <input checked="" type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> ORDINANCE FOR 1 ST READING | 10/17/2016 |
| <input type="checkbox"/> CONTRACT | <input type="checkbox"/> ORDINANCE FOR 2 ND READING | To be continued to a date uncertain |
| <input checked="" type="checkbox"/> MOTION | <input type="checkbox"/> RESOLUTION | |



John Fussa, Community Development Director



G. Randolph Young, Town Administrator

ISSUE:

The applicant, Meritage Homes, is proposing to annex and zone an unincorporated Douglas County parcel into the Town of Parker. The 91 acre parcel known as the Meadowlark property is located on the northeast corner of Crowfoot Valley Road and Richlawn Parkway and is owned by the Cherry Creek Project Water Authority. The property is currently undeveloped. Meritage Homes is requesting PD - Planned Development zoning for the site. Meritage Homes intends to develop the site for detached single-family residential dwelling units as well open space and parks.

PRIOR ACTION:

On May 16, 2016, Town Council adopted Resolution No. 16-038 which set the public hearing date for the Meadowlark property annexation to July 5, 2016. On June 20, 2016, Town Council approved annexation Ordinance No. 2.248 on first reading as a part of the consent agenda. On July 5, 2016 Town Council continued the Meadowlark annexation public hearing to September 19, 2016. On September 19, 2016, Town Council continued the Meadowlark annexation to a date uncertain at the applicant's request.

FUNDING/BUDGET IMPACT:

None

BACKGROUND:

The Meadowlark property being considered for annexation and zoning is located within the Town's Urban Growth Area boundary as described in the Intergovernmental Agreement (IGA) and Comprehensive Development Plan between the Town of Parker and Douglas County last amended August 25, 2015. The Parker 2035 Master Plan identifies the property within the Medium Density Residential Character Area. The Medium Density Residential Character Area allows a maximum gross density of 3.5 dwelling units per acre.

The Town's Charter specifies that all properties be zoned contemporaneously with annexations. The applicant proposes to zone the site PD – Planned Development as part of the annexation. The PD will be called Meadowlark and will permit 268 single family residential dwelling units, 18.91 acres of open space and 6.55 acres of park.

The Meadowlark PD consists of two Planning Areas. Planning Area One (PA-1) consists of single family residential dwelling units at a gross density of 3.165 dwelling units per acre. The gross density is below the maximum dwelling unit density permitted by the Town of Parker Master Plan Medium Density Residential Character Area. PA-1 contains four parks totaling 6.55 acres which exceeds the minimum parkland dedication requirement of the Land Development Ordinance.

Planning Area Two (PA-2) of the Meadowlark PD consists of 18.91 acres of open space which exceeds the minimum open space dedication required by the Land Development Ordinance. The Meadowlark Development Plan depicts an open space buffer along the Richlawn Drive/Richlawn Parkway right-of-way that varies in width. The Meadowlark Development Plan also depicts an open space buffer along the entirety of Crowfoot Valley Road. The largest area of open space is located along the northern boundary of the site including Lemon Gulch.

The Meadowlark Development Plan depicts the primary vehicular access into the site from Crowfoot Valley Road with an east-west Residential Collector road. A secondary vehicular access point is depicted from Richlawn Drive. Final road and access point designs will be refined during the sketch and preliminary plan review.

The Meadowlark Development Plan proposes an eight foot wide recreation trail along the southerly edge of Lemon Gulch that will provide a connection from the regional trail along Crowfoot Valley Road to the eastern boundary of the site. Future trail connections to the Cherry Creek Regional Trail from this east boundary will be developed by others.

The Meadowlark annexation and zoning has been noticed for public hearing on October 17, 2016. On September 19, 2016, Town Council continued the Meadowlark annexation to a date uncertain.

Meritage Homes is requesting a continuance of the public hearing for the zoning to a date uncertain because of unresolved issues with the Parker Water and Sanitation District and the Cherry Creek Project Water Quality Authority.

RECOMMENDATION:

Staff recommends Town Council continue the public hearing for Ordinance No. 3.325 to a date uncertain with the condition that the applicant re-notice the public hearings as required in Section 13.08.030, Subsections 13.08.030(b) and 13.08.030(d) of the Town of Parker Land Development Ordinance. On September 8, 2016, the Planning Commission recommended the continuance of the Meadowlark annexation to a date uncertain.

PREPARED/REVIEWED BY:

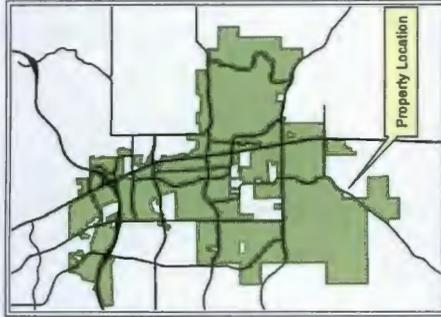
Ryan McGee, Associate Planner; Bryce Matthews, Planning Manager; John Fussa, Community Development Director; James S. Maloney, Town Attorney

ATTACHMENTS:

1. Vicinity Map
2. Ordinance 3.325
3. Planning Commission Staff Report

RECOMMENDED MOTION:

"I move to continue the public hearing to consider Ordinance No. 3.325 to a date uncertain with the condition that the applicant is required to re-notice the public hearings as required in Section 13.08.030, Subsections 13.08.030(b) and 13.08.030(d) of the Town of Parker Land Development Ordinance."



Legend

-  Site
-  Town Boundary
-  Parcels

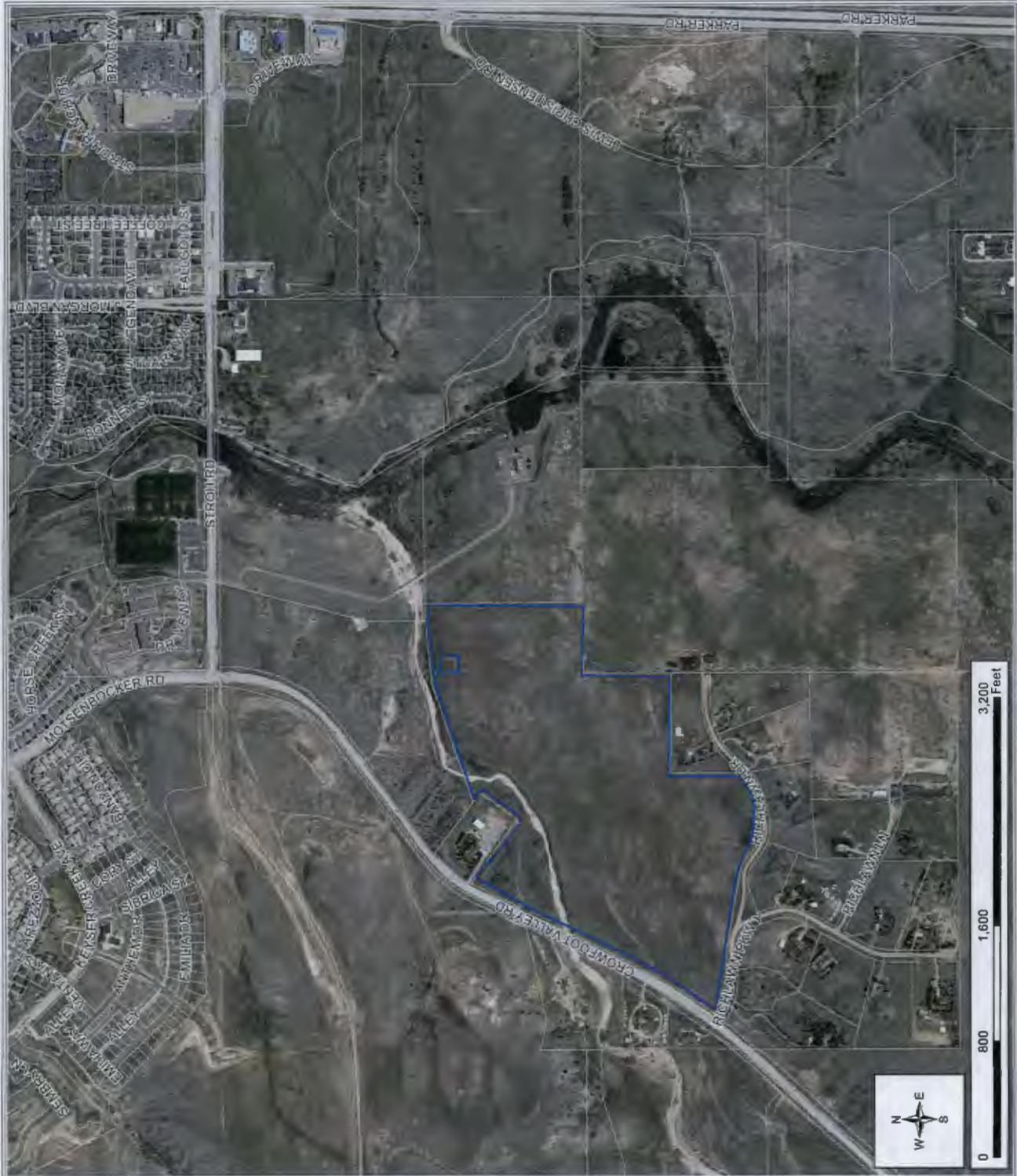
**Unplatted Tract of Land
in the northwest quarter
of Section 4 Township 7
South, Range 66 West of
the 5th Principle Meridian
Douglas County, Colorado**

Planner: Ryan McGee

TC Date: September 6, 2016
(Zoning Ord. 1st Reading)

PC Date: September 8, 2016

TC Date: September 19, 2016
(Zoning and Annexation
Ord. 2nd Reading)



ORDINANCE NO. 3.325, Series of 2016

TITLE: A BILL FOR AN ORDINANCE ZONING CERTAIN PROPERTY WITHIN THE TOWN OF PARKER, COLORADO, KNOWN AS THE MEADOWLARK PROPERTY TO PD-PLANNED DEVELOPMENT DISTRICT PURSUANT TO THE TOWN OF PARKER LAND DEVELOPMENT ORDINANCE AND AMENDING THE ZONING ORDINANCE AND MAP TO CONFORM THEREWITH

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, THAT:

Section 1. Finding of Fact.

a. Application has been made for rezoning certain property described in attached **Exhibit A**, within the Town of Parker, Colorado (the "Property"), as PD-Planned Development District, pursuant to the Town of Parker Land Development Ordinance.

b. Public notice has been given by publication on the Town's website at least fifteen (15) days prior to the public hearing of such zoning.

c. Written notice was sent by first class mail to all owners of property that abut the Property, at least fifteen (15) days prior to the public hearing.

d. Notice of such proposed hearing was posted on the Property for fifteen (15) consecutive days prior to said hearing.

d. The requirements contained in Section 13.04.240(f) of the Parker Land Development Ordinance are satisfied for rezoning the Property to PD-Planned Development District, as described in the Parker Land Development Ordinance.

Section 2. The Property is hereby zoned PD-Planned Development District as provided in the Meadowlark Development Plan and Guide, which is attached hereto as **Exhibit B** and incorporated by this reference. The uses permitted for the Property are specifically described in the attached Development Guide and Plan.

Section 3. The Zoning Ordinance and Zoning Map are hereby amended to conform with the zoning change to the Property.

Section 4. Approval of this Ordinance does not create a vested property right. Vested property rights may arise and accrue, pursuant to the provisions of Ordinance No. 3.65.1, as amended, of the Town of Parker.

Section 5. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is

promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 6. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 7. This Ordinance shall become effective upon the later to occur of: (i) the date that is ten (10) days after final publication; or (ii) the date the Annexation Ordinance for the Property goes into effect, whichever occurs last.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

Exhibit A

LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 3, AND IN THE EAST 1/2 OF SECTION 4, TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 3 AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST 1/4 TO BEAR 89 DEGREES 52 MINUTES 31 SECONDS EAST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE NORTH 89 DEGREES 52 MINUTES 31 SECONDS EAST ALONG SAID NORTH LINE A DISTANCE OF 1740.60 FEET;

THENCE SOUTH 00 DEGREES 07 MINUTES 29 SECONDS EAST A DISTANCE OF 34.37 FEET; THENCE SOUTH 23 DEGREES 12 MINUTES 25 SECONDS WEST A DISTANCE OF 1054.94 FEET;

THENCE SOUTH 31 DEGREES 26 MINUTES 50 SECONDS EAST A DISTANCE OF 550.78 FEET TO THE SOUTHEAST CORNER OF THE TAP PROPERTIES PARCEL (BOOK 982 AT PAGE 524) AND TO THE

TRUE POINT OF BEGINNING;

THENCE SOUTH 31 DEGREES 26 MINUTES 50 SECONDS EAST A DISTANCE OF 259.41 FEET;

THENCE SOUTH 24 DEGREES 40 MINUTES 14 SECONDS EAST A DISTANCE OF 846.84 FEET;

THENCE SOUTH 07 DEGREES 07 MINUTES 00 SECONDS EAST A DISTANCE OF 134.18 FEET TO THE SOUTH LINE OF SAID NORTHWEST 1/4;

THENCE SOUTH 89 DEGREES 51 MINUTES 10 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 2118.05 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 4;

THENCE SOUTH 00 DEGREES 04 MINUTES 26 SECONDS EAST ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4 A DISTANCE OF 619.79 FEET TO THE NORTHEAST CORNER OF RICHLAWN HILLS ACCORDING TO THE PLAT FILED ON JANUARY 12, 1971 PER RECEPTION NO. 140291;

THENCE ALONG THE NORTHERN BOUNDARY OF RICHLAWN HILLS FOR THE NEXT 12 COURSES:

1. THENCE SOUTH 89 DEGREES 55 MINUTES 34 SECONDS WEST A DISTANCE OF 710.00 FEET;

2. THENCE SOUTH 00 DEGREES 04 MINUTES 26 SECONDS EAST A DISTANCE OF 491.54 FEET;

3. THENCE SOUTHWESTERLY ALONG THE ARC OF OF CURVE TO THE RIGHT A DISTANCE OF 238.13 FEET, SAID CURVE HAS A RADIUS OF 470.00 FEET AND A CENTRAL ANGLE OF 29 DEGREES 01 MINUTES 48 SECONDS TO A POINT OF TANGENT;

4. THENCE SOUTH 75 DEGREES 12 MINUTES 17 SECONDS WEST ALONG SAID TANGENT A DISTANCE OF 107.39 FEET TO A POINT OF CURVE;

5. THENCE WESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 263.65 FEET, SAID CURVE HAS A RADIUS OF 270.00 FEET AND A CENTRAL ANGLE OF 55 DEGREES 58 MINUTES 50 SECONDS TO A POINT OF TANGENT;

6. THENCE NORTH 48 DEGREES 50 MINUTES 53 SECONDS WEST ALONG SAID TANGENT A DISTANCE OF 52.07 FEET TO A POINT OF CURVE;

7. THENCE WESTERLY ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 127.30 FEET, SAID CURVE HAS A RADIUS OF 240.00 FEET AND A CENTRAL ANGLE OF 30 DEGREES 23 MINUTES 23 SECONDS TO A POINT OF TANGENT;

8. THENCE NORTH 79 DEGREES 14 MINUTES 16 SECONDS WEST ALONG SAID TANGENT A DISTANCE OF 509.97 FEET TO A POINT OF CURVE;

9. THENCE WESTERLY ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 59.84 FEET, SAID CURVE HAS A RADIUS OF 290.00 FEET AND A CENTRAL ANGLE OF 11 DEGREES 49 MINUTES 21 SECONDS TO A POINT OF TANGENT;

10. THENCE SOUTH 88 DEGREES 56 MINUTES 23 SECONDS WEST ALONG SAID TANGENT A DISTANCE OF 151.71 FEET TO A POINT OF CURVE;

11. THENCE WESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 273.32 FEET, SAID CURVE HAS A RADIUS OF 460.00 FEET AND A CENTRAL ANGLE OF 34 DEGREES 02 MINUTES 35 SECONDS TO A POINT OF TANGENT;

12. THENCE NORTH 57 DEGREES 01 MINUTES 62 SECONDS WEST ALONG SAID TANGENT A DISTANCE OF 76.93 FEET TO THE EAST RIGHT OF WAY LINE OF THE COUNTY ROAD;

THENCE NORTH 32 DEGREES 58 MINUTES 58 SECONDS EAST ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 1116.38 FEET;

THENCE NORTH 25 DEGREES 06 MINUTES 42 SECONDS EAST ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 780.91 FEET TO A POINT OF CURVE;

THENCE NORTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 56.88 FEET, SAID CURVE HAS A RADIUS OF 925.25 FEET AND A CENTRAL ANGLE OF 03 DEGREES 31 MINUTES 21 SECONDS TO THE MOST WESTERLY CORNER OF THE WILSON PARCEL (BOOK 819 AT PAGE 717);

THENCE SOUTH 50 DEGREES 36 MINUTES 41 SECONDS EAST A DISTANCE OF 504.57 FEET TO THE MOST SOUTHERLY CORNER OF SAID WILSON PARCEL;

THENCE NORTH 39 DEGREES 23 MINUTES 19 SECONDS EAST A DISTANCE OF 345.29 FEET TO THE MOST EASTERLY CORNER OF SAID WILSON PARCEL;

THENCE NORTH 50 DEGREES 36 MINUTES 41 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID WILSON PARCEL A DISTANCE OF 87.46 FEET TO THE MOST SOUTHERLY CORNER OF THE COYLE PARCEL (BOOK 638 AT PAGE 869);

THENCE NORTH 73 DEGREES 12 MINUTES 48 SECONDS EAST ALONG THE SOUTH LINE OF THE COYLE PARCEL A DISTANCE OF 913.61 FEET;

THENCE NORTH 83 DEGREES 28 MINUTES 25 SECONDS EAST ALONG THE SOUTH LINE OF THE COYLE PARCEL A DISTANCE OF 460.79 FEET TO THE SOUTHEAST CORNER OF THE COYLE PARCEL, BEING THE SOUTHWEST CORNER OF THE TAP PROPERTIES PARCEL;

THENCE NORTH 89 DEGREES 28 MINUTES 28 SECONDS EAST ALONG THE SOUTH LINE OF THE TAP PROPERTIES PARCEL A DISTANCE OF 1226.29 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTIONS CONVEYED IN DEED RECORDED OCTOBER 20, 1999 IN BOOK 1768 AT PAGE 1098.

AND EXCEPTING THEREFROM THAT PORTION TAKEN IN RULE AND ORDER RECORDED SEPTEMBER 26, 2003 AT RECEPTION NO. 2003143247.

COUNTY OF DOUGLAS, STATE OF COLORADO.

SAID PARCEL CONTAINS 3,958,306 SQUARE FEET, OR 90.87 ACRES, MORE OR LESS, AFTER SUBTRACTION OF THE EXCEPTIONS.

Exhibit B

MEADOWLARK Planned Development Guide

August 25, 2016

PLANNED DEVELOPMENT GUIDE

A. Statement of Purpose

The purpose of the Meadowlark Development Plan and this Development Guide is to establish standards for the development and improvement of the property subject hereto. The standards contained in this Development Guide are intended to carry out the goals of this planned community.

B. Application

These standards shall apply to all property encumbered by the Development Plan and this Development Guide. These zoning regulations and requirements shall become the governing standards for review, approval and modification of all uses occurring on the site.

Provisions of this Development Guide shall prevail and govern the use of the site. The zoning codes and regulations for the Town of Parker shall apply where the provisions of this guide do not address a specific subject or where there is a conflict, in which case the Parker Municipal Code prevails.

AUTHORITY

A. Authority

The authority for this Development Guide is Section 13.04.150 (PD-Planned Development) of the Parker Municipal Code, as amended.

B. Adoption

Adoption of this Development Guide shall be governed by Section 13.04.150 of the Parker Municipal Code, as amended.

C. Enforcement

The provisions of the Development Guide relating to the use of land shall run in favor of the Town of Parker and shall be enforceable, at law or in equity, by the Town of Parker.

D. Additions

The addition of land to this Planned Development shall be considered a zoning amendment and shall be subject to the procedures and requirements contained in Sec. 13.04.240 of the Parker Municipal Code, as amended.

CONTROL PROVISIONS

A. Control Over Use

After adoption of this Development Guide by Town Council:

1. Any new building or other structure, and any parcel of land may be used as provided for in this Development Guide;
2. The use of any existing building, other structure, or parcel of land may be changed or extended as provided for in this Development Guide; and
3. Any existing building or other structure may be enlarged, reconstructed, structurally altered, converted or relocated for any purpose permitted or required by the provisions of this Development Guide.

B. Control Over Location and Bulk

After adoption of this Development Guide by the Town Council, the location and bulk of all buildings and other structures built after the effective date of this Development Guide shall be in conformance with:

1. All applicable standards contained within the Development Plan and this Development Guide; and
2. Any other applicable standards of the Parker Municipal Code, as amended and where such standards are not specifically addressed in, or are in conflict with this Development Guide.

C. Incorporation of the Development Plan

The plan for development of the property subject hereto, including the type, location and boundaries of land use area as shown on the Meadowlark Development Plan, which is attached as Exhibit A and is hereby incorporated by reference into this Development Guide.

GENERAL PROVISIONS

A. Purpose

The purpose of this section is to establish general provisions and clarify standards and requirements for development of the subject lands.

B. Planning Area Boundaries

The boundaries and acreage of all Planning Areas within this Planned Development are shown on the Development Plan. Where a Planning Area abuts an internal local street or drive, the boundary shall be the centerline of the street. Where a Planning Area abuts an arterial or collector street the boundary shall be the right-of-way line of that street as indicated on the Development Plan. Where a Planning Area abuts another Planning Area, the boundary shall be the centerline of the abutting boundaries as shown on the Development Plan.

1. The size of the Planning Area may increase or decrease a maximum of 10% after final determination through the platting process of the alignments of any of the streets and drives, open space areas, shown on the Development Plan.
2. No amendment to this Development Guide shall be required for modifications to Planning Area boundaries internal to the site which results in changes to those areas amounting to less than 10% of the area of each such Planning Area. However, the developer shall keep and submit accurate records of such boundary revisions and shall inform the Town of the same, as required by the Community Development Director if the modification is determined to be minor.
3. Any modifications to a Planning Area that increases or decreases such Planning Area by more than 10% of its size as shown on the Development Plan shall be processed as a zoning amendment in accordance with Section 13.04.240 of the Parker Municipal Code, as amended.
4. The final boundary of any Planning Area shall be established upon approval of final plat(s) for such area.

C. Utility Connections

Approval for connection to Parker Water and Sanitation District facilities or other appropriate utility system shall be required for each principal building is constructed under the terms of this Development Guide within the property subject hereto and notice of such approval shall be provided to the Town Building Inspector.

D. Agricultural Uses

Agricultural activities, and all accessory structures and uses which are customarily incidental or appropriate to farming and ranching shall be permitted within the property subject hereto,

prior to, but not during, the phased development of the project, subject to the Parker Municipal Code, as amended.

DEVELOPMENT STANDARDS

SECTION 1. SINGLE FAMILY DETACHED RESIDENTIAL – PLANNING AREA (PA-1)

Sec. 1-10. Intent

The single family detached neighborhood will include residential lots and accessory uses, parks, open spaces and trail corridors which will connect the residences to the site's amenities.

Sec. 1-20. Uses Permitted by Right

1. Detached single family dwellings
2. Public and private open space, parks, and recreational uses
3. Community building/clubhouse including private indoor and outdoor recreation facilities
4. Public facilities including Public Water Facilities and other public facilities that meet the intent of this district as determined by the Community Development Director
5. Drainage facilities and detention/water quality ponds, subject to the requirements established within Section 13.07.140(c)(9)f of the Parker Municipal Code, as amended; (may not be included in the required 20% open space calculations unless the design of the pond is in accordance with Section 13.07.140(c)(9)f.

Sec. 1.30. Development Standards

1. Maximum Gross Density: 3.5 Dwelling units per acre
2. Minimum lot area: 5,000 square feet
3. Maximum Building height: 35 feet
4. Minimum lot width:
 - At the street: 50 feet
 - At a cul-de-sac, knuckle or similarly curved frontage at the street: 30 feet
5. Primary structure front setback (from local street right-of-way):
 - 20 feet to face of garage door
 - 12 feet to face of home when garage is side loaded
 - 10 feet to unenclosed covered porch without living space above the porch
6. Primary and accessory structure side setback: 5 feet
7. Primary structure rear setback:
 - a. 15 feet
 - i. internal lots

- ii. lots adjacent to an open space buffer, open space, park, trail or detention facility
- iii. lots along the eastern perimeter of the parcel
- iv. lots adjacent to open space and landscape buffers along the internal residential collector street and E. Richlawn Drive
- b. 20 feet
 - i. lots along adjacent to the open space buffer along Crowfoot Valley Road
 - ii. lots adjacent to Lot 13 of the Richlawn Subdivision. The builder shall provide a minimum of three trees for within each rear lot of the homes adjacent to Lot 13 within the Richlawn Subdivision. The tree shall be placed within 15 feet of the private rear lot line.
- 8. Accessory structure rear setback: 10 feet
- 9. Corner lot side setback (from local and collector street right-of-way):
 - 10 feet to side of structure
 - 20 feet to face of garage door if side entry
 - 5 feet when adjacent to an open space tract paralleling the street
- 10. Community building/clubhouse including private indoor and outdoor recreation facilities:
 - Setback from all property/tract lines: 20 feet
 - Maximum building height: 35 feet
- 11. Single Family Detached Residential Guidelines: All development shall meet the minimum design criteria established in Chapter 13.10 of the Parker Municipal Code, as amended.

SECTION 2. OPEN SPACE - PLANNING AREA 2 (PA-2)

Sec. 2-10. Description/Intent

1. Open spaces include separation buffers, steep slopes landscape buffers, floodplain and trail corridors. The intent is that all residences have easy access to the site recreational amenities and trail corridors.
2. The intent of the Open Space is to provide for areas intentionally left free from development that are regulated to manage and protect the natural environment. These areas generally left in their natural state provide passive recreational opportunities, provide environmental protection and educational, scientific or aesthetic benefits and may include trail corridors, greenways and undeveloped parks whereas not requiring significant infrastructure such as roads or utility services.

Sec. 2-20. Uses Permitted by Right

1. Trails;
2. Drainage facilities and detention/water quality ponds, subject to the requirements established within Section 13.07.140(c)(9)f of the Parker Municipal Code, as amended; (may not be included in the required 20% open space calculations unless the design of the pond is in accordance with Section 13.07.140(c)(9)f).
3. Picnic area;
4. Informal recreation requiring limited infrastructure or utilities (i.e. frisbee golf, horseshoes, volley ball etc.)
5. Outdoor nature center such as an unpaved path with informational signage, informal seating on rocks or logs, grove of trees and informal gathering place, shelters, outdoor classroom, and like items.

Sec. 2-30. Maximum Structure Height

The maximum height of any structure in the Open Space areas shall be 20 feet.

Sec. 2-40. Setbacks

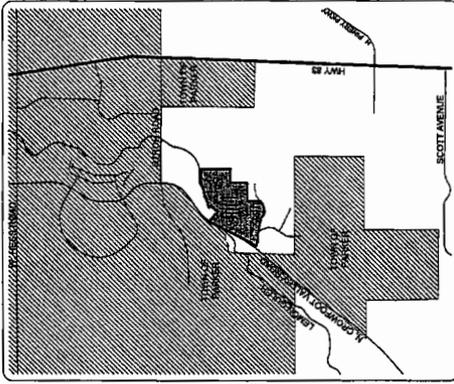
1. The setback for buildings proposed in the PA-2 shall be determined during the Subdivision process and reviewed by the Planning Commission and Town Council.
2. Lot lines adjacent to Crowfoot Valley Road shall be setback a minimum of 50 feet from the ultimate right-of-way line and an average buffer width along Crowfoot Valley Road of 60 to 65 feet from the ultimate right-of-way line for Crowfoot Valley Road.

SECTION 5. NOTES

1. The developer has the right to build at a lower density in any Planning Area provided it is compatible with adjacent land uses. The finding of compatibility is determined at the time of Sketch Plan. This reduction shall be considered a minor change, enabling the developer to gain approval of the Subdivision without amending the Development Plan.
2. All roadways and access points shown on the Development Plan are conceptually located to provide access to the site and its environs. Final alignments, access and design will be determined at the time of Subdivision.

Meadowlark Development Plan

BEING A PART OF THE NORTHWEST 1/4 OF SECTION 3, & IN THE EAST 1/2 OF SECTION 4,
TOWNSHIP 7 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF DOUGLAS, STATE OF COLORADO
90.87 ACRES 288 RESIDENTIAL LOTS



VICINITY MAP SCALE: 1" = 2,000'

Legal Description

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 3, AND IN THE EAST 1/2 OF SECTION 4, TOWNSHIP 7 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST QUARTER CORNER OF SAID SECTION 4 AND CONSIDERING THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 4 TO BEAR SOUTH 89°27'17" WEST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THEREIN;

THENCE SOUTH 0°00'00" EAST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4 A DISTANCE OF 619.79 FEET TO THE NORTHEAST CORNER OF RICHMAN HILLS ACCORDING TO THE PLAN RECORDED ON JANUARY 12, 1911 AT RECEPTION NO. 1487 OF THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE ALONG THE NORTHERLY BOUNDARY OF RICHMAN HILLS THE FOLLOWING TWELVE (12) COURSES:

- 1) SOUTH 89°59'34" WEST A DISTANCE OF 708.17 FEET;
- 2) SOUTH 0°00'00" EAST A DISTANCE OF 461.38 FEET TO A POINT OF CURVATURE;
- 3) ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 28°08'54", A RADIUS OF 470.00 FEET, AN ARC LENGTH OF 296.07 FEET AND A CHORD THAT BEARS NORTH 42°28'52" WEST A DISTANCE OF 238.5 FEET;
- 4) SOUTH 89°12'17" WEST A DISTANCE OF 107.38 FEET TO A POINT OF CURVATURE;
- 5) ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 25°56'30", A RADIUS OF 270.00 FEET, AN ARC LENGTH OF 200.86 FEET AND A CHORD THAT BEARS NORTH 78°42'28" WEST A DISTANCE OF 203.30 FEET;
- 6) NORTH 48°50'52" WEST A DISTANCE OF 52.67 FEET TO A POINT OF CURVATURE;
- 7) ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 50°23'27", A RADIUS OF 240.00 FEET, AN ARC LENGTH OF 132.30 FEET AND A CHORD THAT BEARS NORTH 81°02'59" WEST A DISTANCE OF 158.81 FEET;
- 8) NORTH 79°14'18" WEST A DISTANCE OF 99.97 FEET TO A POINT OF CURVATURE;
- 9) ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 11°49'21", A RADIUS OF 200.00 FEET, AN ARC LENGTH OF 104.00 FEET AND A CHORD THAT BEARS NORTH 81°02'59" WEST A DISTANCE OF 158.81 FEET;
- 10) SOUTH 89°59'34" WEST A DISTANCE OF 161.11 FEET TO A POINT OF CURVATURE;
- 11) ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 54°02'25", A RADIUS OF 460.00 FEET, AN ARC LENGTH OF 273.32 FEET AND A CHORD THAT BEARS NORTH 74°12'20" WEST A DISTANCE OF 289.31 FEET;
- 12) NORTH 57°01'02" WEST A DISTANCE OF 2.25 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF CROWFOOT VALLEY ROAD AND THE TOWN OF PARKER TOWN LIMITS ACCORDING TO THE HESS MARCH ANNEXATION PLAN RECORDED AT RECEPTION NO. 200146884 OF THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF CROWFOOT VALLEY ROAD AND SAID TOWN OF PARKER TOWN LIMITS THE FOLLOWING TEN (10) COURSES:

- 1) ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 94°25'42", A RADIUS OF 3,000.00 FEET, AN ARC LENGTH OF 296.07 FEET AND A CHORD THAT BEARS NORTH 84°25'18" EAST A DISTANCE OF 288.00 FEET;
- 2) NORTH 25°59'46" EAST A DISTANCE OF 204.00 FEET TO A POINT OF CURVATURE;
- 3) ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 3°23'30" WEST A DISTANCE OF 3,000.00 FEET, AN ARC LENGTH OF 174.14 FEET AND A CHORD THAT BEARS NORTH 87°17'04" EAST A DISTANCE OF 174.12 FEET;
- 4) NORTH 25°59'46" EAST A DISTANCE OF 381.28 FEET;
- 5) NORTH 23°04'14" EAST A DISTANCE OF 1.09 FEET;
- 6) NORTH 25°59'46" EAST A DISTANCE OF 309.66 FEET;
- 7) NORTH 25°59'46" EAST A DISTANCE OF 59.99 FEET;
- 8) SOUTH 23°58'17" EAST A DISTANCE OF 530.00 FEET;
- 9) ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 94°12'18", A RADIUS OF 900.00 FEET, AN ARC LENGTH OF 62.25 FEET AND A CHORD THAT BEARS NORTH 28°10'09" EAST A DISTANCE OF 65.84 FEET TO A POINT ON THE BOUNDARY OF THAT PROPERTY DESCRIBED IN BOOK 87 AT PAGE 717 AND BOOK 87 AT PAGE 719 OF THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE ALONG THE BOUNDARY OF SAID PROPERTY THE FOLLOWING THREE (3) COURSES:

- 1) SOUTH 90°52'41" EAST A DISTANCE OF 860.17 FEET
- 2) NORTH 87°28'59" EAST A DISTANCE OF 545.29 FEET;
- 3) NORTH 52°06'41" WEST A DISTANCE OF 87.48 FEET TO A POINT ON THE BOUNDARY OF THAT PROPERTY DESCRIBED IN BOOK 88 AT PAGE 889 OF THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE ALONG THE BOUNDARY OF SAID PROPERTY THE FOLLOWING TWO (2) COURSES:

- 1) NORTH 73°12'46" EAST A DISTANCE OF 813.81 FEET;
- 2) NORTH 87°28'59" EAST A DISTANCE OF 460.19 FEET TO THE SOUTHWEST CORNER OF THAT PROPERTY DESCRIBED AT RECEPTION NO. 200146884 OF THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE NORTH 87°28'59" EAST ALONG THE BOUNDARY OF SAID PROPERTY A DISTANCE OF 10.84 FEET TO THE NORTHWEST CORNER OF THAT PROPERTY DESCRIBED AT RECEPTION NO. 200314817 OF THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE SOUTH 87°02'59" EAST ALONG THE WESTERLY BOUNDARY OF SAID PROPERTY A DISTANCE OF 1,117.73 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 2;

THENCE SOUTH 89°59'34" WEST ALONG SAID SECTION LINE A DISTANCE OF 89.84 FEET TO THE POINT OF BEGINNING

SAID PARCEL CONTAINS 3,958.308 SQUARE FEET OR 90.87 ACRES, MORE OR LESS

Signature Block by Owner:

I, we, the undersigned, being the owner of deeds of trust and holder of other interests in the Planned Development known as the (project name), do hereby indicate that this Development Plan represents the approved plan for the subdivision of the above described land into lots and blocks in the North 1/4 of Section 3, and in the East 1/2 of Section 4, Township 7 South, Range 68 West of the 6th Principal Meridian, Douglas County, Colorado.

Owners:

By: _____
STATE OF COLORADO
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 20____.

Witness my hand and official seal.

Notary Public _____ My Commission Expires _____

Planning Commission Acceptance:

This Development Plan was reviewed and recommended for approval by the Town of Parker Planning Commission following a public hearing held on _____, 20____.

Planning Director, on behalf of The Town of Parker Planning Commission

Town Council Acceptance:

This Development Plan was approved by the Town Council of the Town of Parker on the _____ day of _____, 20____, for the property described as the Meadowlark. The zoning information shown herein was confirmed with the adoption of Ordinance No. _____.

Mayor, Town of Parker

ATTEST: _____
Town Clerk

Clerk and Recorder's Certificate

STATE OF COLORADO)
COUNTY OF DOUGLAS)

I hereby certify that this Development Plan was filed in my office on this _____ day of _____, 20____ A.D. at _____ o'clock _____ M. and was recorded with reception number _____.

Douglas County Clerk and Recorder

APPLICANT:
Meadowlark Homes
6002 S. Yucca Court #1-201
Littleton, Colorado 80120
(303) 482-0002

ENGINEER:
Jason Starn
Consulting Engineers, Inc.
1400 S. W. 10th Street
Denver, CO 80202
(303) 941-3333

PLANNER:
Henry Design Group, Inc.
1400 S. W. 10th Street, 1-C
Denver, CO 80202
(303) 448-2368

Sheet Index:

Sheet 1 - Cover Sheet
Sheet 2 - Development Plan Exhibit

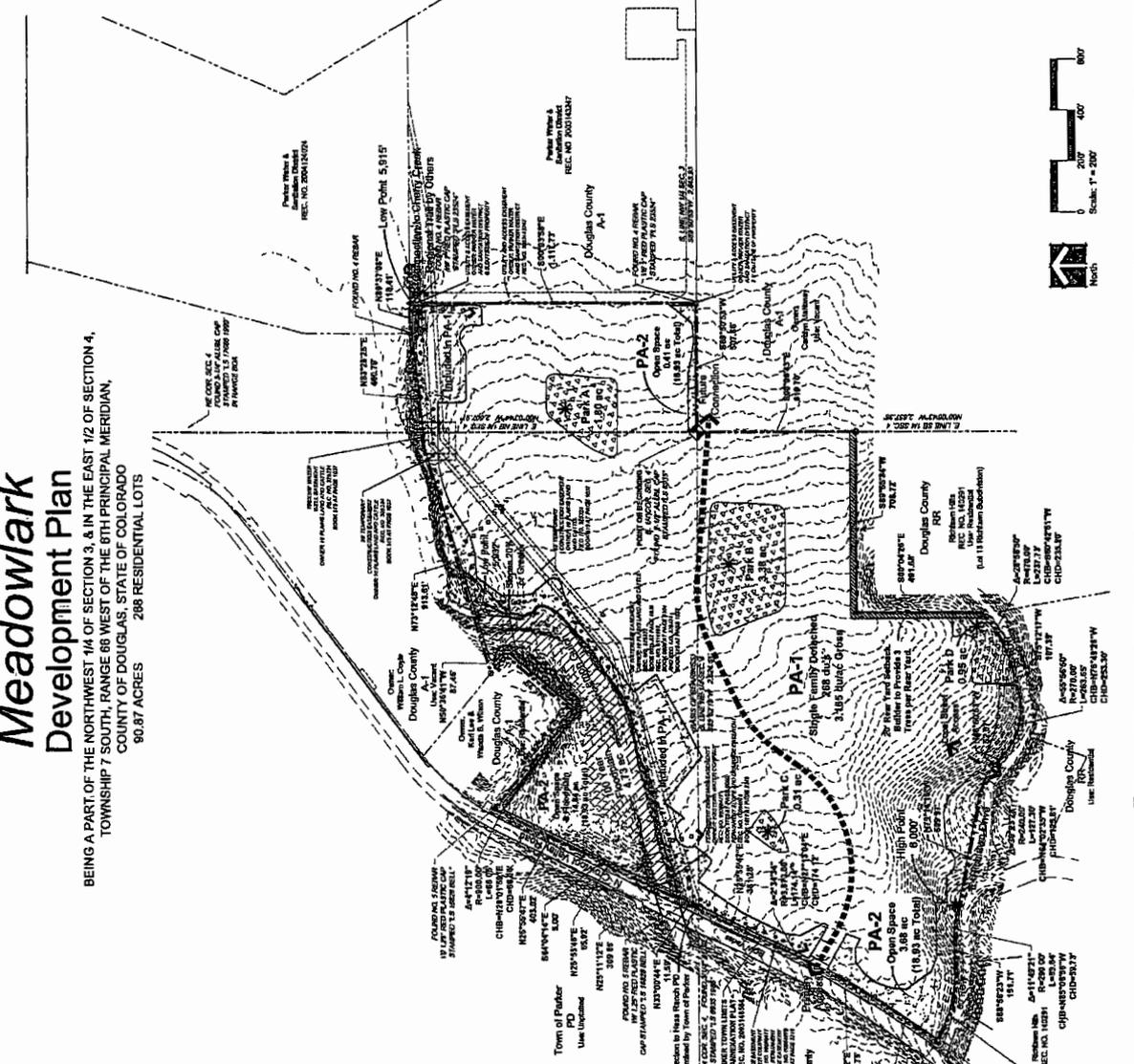
DEVELOPMENT PLAN
SHEET: 1 of 2
DATE: 5-26-2010
REV: 8-25-2018

Meadowlark Development Plan

BEING A PART OF THE NORTHWEST 1/4 OF SECTION 3, & IN THE EAST 1/2 OF SECTION 4,
TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF DOUGLAS, STATE OF COLORADO
90.87 ACRES
288 RESIDENTIAL LOTS

LEGEND

- PA-1 / Property Boundary
- PA-1 / Additional areas
- PA-2 / Planning Area Boundary and Open Space (area not included in PA-1)
- Proposed 10' Trail
- Proposed 5' Trail Connection
- Proposed Access Points Primary & Future
- Proposed Access Point Local
- Proposed Residential Collector Street Approximate Alignment
- Section Line
- Existing Easement
- Existing 5' Contour
- Existing 1' Contour
- Existing 100 Year Floodplain
- High Point / Low Point
- Park
- 20% and greater slopes
- 20' Rear Yard Setback
- Builder to provide 3 trees per rear yard.



DEVELOPMENT PROGRAM

AREA	Acres	Density Units	Peak Production	Open Space Dedication
Total Site Area	90.87	268		
PA-1 Area	2.85			1.37
PA-2 Area	1.47			4.73
Net Site Area	86.55			
Open Space	18.83			18.83
Parks	6.44			6.44

Includes 20% slope and FEMA 100 Year Floodplain
Includes 37 acres of Crowfoot Valley Road ROW Dedication

- ### PARKS & OPEN SPACE
- Required Open Space, 90.87 acres x 20% = 18.174 acres (Detention/Retention Ponds are not included in the proposed open space)
 - Provided Open Spaces: 18.83 acres
 - Required Parks: 268 DU x .0239 = 6.41 acres
 - Provided Parks: 6.44 acres

- ### NOTES
- The site is currently zoned A-1 Agriculture in Douglas County.
 - The proposed zoning is to be Meadowlark Planned Development.
 - The number of units will not exceed 268 units. All units will be single family detached.
 - The proposed gross density is 3.165 units/acre. The density shall be based on the total area of the site. This is a maximum density which shall apply to the entire area and shall not be specifically applicable to any individual portion thereof.
 - The following utilities will provide services/utilities to the site:
 - Sewer and water services will be provided by the Parker Water and Sanitation District.
 - Police protection and other municipal services will be provided to the property by the Town of Parker.
 - Fire protection will be provided by the South Metro Fire Rescue Authority.
 - The approximate location of parks, open space, trails, definition facilities and vehicular access points as indicated on the PD Plan are conceptual only. Local, design and site shall be indicated at time of Sketch and Preliminary Plan.
 - Access points and the residential collector are conceptual only and will be determined at the time of Sketch and Preliminary Plan.
 - Use on the property and any located in the steep slope areas of Lemay Gulch and within PA-2. No steep slope areas are located within the development area. Development within the steep slope areas shall comply with Section 13.10.100 (Hillside Development) of the Parker Municipal Code, as amended.

Sheet Index:

Sheet 1 - Cover Sheet
Sheet 2 - Development Plan Exhibit

ENGINEER:
James Strain
Consulting Engineers, Inc.
6072 E. Vermont Court #1201
Denver, CO 80223
(303) 941-3833

APPLICANT:
Merrill Jones
6072 E. Vermont Court #1201
Denver, CO 80223
(303) 941-3833

PLANNER:
Henry Design Group, Inc.
10000 E. Hampden Ave., Suite 110
Denver, CO 80231
(303) 442-2358

DEVELOPMENT PLAN:
SHEET: 2 of 2
DATE: 6-26-2018
REV: 8-25-2018





PARKER

COLORADO

Community Development Department Memorandum Development Review Division

To: Town of Parker Planning Commission

From: Ryan McGee, AICP, Associate Planner *RM*
Bryce Matthews, Planning Manager *BM*

Through: John Fussa, Community Development Director

Date: September 8, 2016

Regarding: Public Hearing: MEADOWLARK PROPERTY - Zoning [Z16-020]

Section I. Subject & Proposal:

Location: Northeast corner of Crowfoot Valley Road and Richlawn Parkway

Applicant(s): Henry Design Group, Karen Henry
Meritage Homes, Richard Cross

Owner: Cherry Creek Project Water Authority

Proposal: Meritage Homes proposes to zone a 91 acre parcel of land to PD – Planned Development as part of a related annexation request. The PD will be called Meadowlark and will consist of 268 detached single-family residential dwelling units, parks, open space buffers and a recreational trail along Lemon Gulch.

Section II. Background:

History: In August of 2007 the Cherry Creek Project Water Authority submitted application(s) to the Town of Parker for Annexation, Zoning, Minor Development Plat, Use by Special Review and Site Plan for this parcel.

These 2007 applications proposed annexing the parcel into the Town and zoning the parcel PF – Public Facility. The Minor Development Plat, Use by Special Review and Site Plan proposed mining the site for marketable mixed-aggregate materials for a period of seven to 10 years. The end result of the proposed excavation of the site was to be two water storage reservoirs.

The Site Plan, Use by Special Review and Minor Development Plat applications expired without going to public hearing in April 2008. The Annexation and Zoning applications expired without going to public hearing in August 2009. No other land use applications were submitted to the Town until the submittal of this Meadowlark annexation and zoning project was submitted in 2016.

Land Use Summary Data:

Total Area: 90.659 acres (3,950,674 s.f.)
Zoning: Unincorporated Douglas County A1 – Agriculture One
Existing Use: Undeveloped

**Surrounding Existing
Zoning & Land
Use(s):**

North: Unincorporated Douglas County A1 – Agriculture One and Town of Parker Hess Ranch PD – Planned Development. Existing uses include one single-family residential dwelling unit and undeveloped land.

East: Unincorporated Douglas County A1 – Agriculture One and Cherry Creek.

South: Unincorporated Douglas County RR – Rural Residential zone district. Existing uses include 14 large lot (4 – 5 acre) single-family residential dwelling units and undeveloped land.

West: Unincorporated Douglas County A1 – Agriculture One and Town of Parker Hess Ranch PD – Planned Development. Existing uses include three single-family residential dwelling units, recreational vehicle storage and undeveloped land.

Proposed Residential

Lots: 268

Proposed Residential

Dwelling Unit

Density: 3.165 dwelling unit(s) per acre

Section III.

Analysis:

Development Plan:

The Development Plan consists of two planning areas. Planning Area One (PA-1) allows for 268 single-family detached residential dwelling units, a community clubhouse building with private indoor and outdoor recreation facilities and six acres of parks.

Planning Area 2 (PA-2) consists of 14.84 acres of open space including the Lemon Gulch Floodplain. The Development Plan depicts undulating open space buffers along Crowfoot Valley Road and Richlawn Drive with the minimum width of the open space buffer along both roads being 50 feet. The entire area north of Lemon Gulch is proposed as open space.

Development Guide:

The Meadowlark PD Guide sets forth development standards for the planning areas identified on the Development Plan. The uses allowed in PA-1 are detached single-family dwelling units, a community clubhouse building including private indoor and outdoor recreation facilities and parks. PA-1 also establishes standards for minimum lot area, lot width and structure setbacks. The PD establishes a minimum lot area of 5,000 square feet with minimum lot widths of 50 feet at the street and 30 feet within cul-de-sacs. Primary structure setbacks are 20 feet from right-of-way to the face of garage doors and 12 feet to the face of home when the garage is side loaded. Primary and accessory structure side setbacks are 5 feet. Primary structure rear setbacks are 15 feet and accessory structures rear setbacks are 10 feet.

PA-2 allows for open space, recreation trails, picnic areas and informal gathering places such as outdoor shelters and seating. PA-2 establishes a minimum open space buffer of 50 feet from the ultimate Crowfoot Valley Road right-of-way with an average open space buffer width of 60 to 65 feet and preserves the Lemon Gulch floodplain.

Open Space, Trails, and Parks:

The Land Development Ordinance requires Meritage Homes to provide a minimum 6.41 acres of park and 18.174 acres of open space with the proposed development. 6.44 acres of park and 18.93 acres of open space are being provided meeting the minimum requirement of the Land Development Ordinance.

The open space identified on the Meadowlark Development Plan provides undulating buffers from Crowfoot Valley Road and Richlawn Drive right-of-way that vary in width from a minimum of 50 feet up to 144 feet. The steep slopes, 100 Year Floodplain and area adjacent to Lemon Gulch are designated as open space on the Development Plan.

A 10 foot-wide regional recreation trail is proposed within the open space buffer along Crowfoot Valley Road and along the south side of Lemon Gulch to the northeast property boundary. The trail will eventually continue east over the adjacent Parker Water and Sanitation District property where it will cross an existing bridge over Lemon Gulch and continue northbound to connect to the Cherry Creek Trail.

Four parks totaling 6.44 acres are proposed in the Development Plan. The parks are located so that future residents of Meadowlark have a park within reasonable walking or wheelchair distance from the homes. Park B as depicted on the plan is centrally located and is proposed to be the site of the private community clubhouse/recreation facilities.

Utilities:

Parker Water and Sanitation District will hold a hearing to include the Meadowlark property into the Parker Water and Sanitation District service area. Parker Water and Sanitation District will provide water and sanitary sewer to the development with inclusion. Xcel Energy, IREA, CenturyLink and Comcast will also serve the site.

Major Roads, Access and Circulation:

Primary access to the Meadowlark development will be from a full-movement signalized intersection at Crowfoot Valley Road. A secondary access is proposed off Richlawn Drive.

A west to east running residential collector road bisects the development and will move motorists, bicyclists and pedestrians to the local streets within the development as well as provide access to the park containing the Meadowlark community clubhouse and associated recreational facilities and provide access to the vacant parcel to the east.

The developer will be required to construct public improvements to Crowfoot Valley Road to accommodate the Meadowlark development as included in the Annexation Agreement. These road improvements include, but are not limited to designing and constructing one-half of the widening of Crowfoot Valley Road to a four-lane arterial road section adjacent to the Meadowlark property, constructing sidewalks adjacent to Crowfoot Valley Road, as well as acceleration and deceleration turn-lanes into the development.

Richlawn Parkway is a Douglas County owned and maintained right-of-way. Improvements to Richlawn Parkway will require review, approval and permitting from Douglas County Engineering.

Section IV.

Additional Staff Findings:

The Town of Parker Land Development Code, §13.04.240(f), specifies nine criteria to be used in evaluating zoning requests. If the proposed use meets these criteria, or can meet them subject to reasonable mitigation conditions, the use may be approved.

1. A need exists for the proposal.

Applicant analysis and findings:

This area of Douglas County is very desirable as evidenced by the continued growth within the Town of Parker. Meritage Homes will provide homes within Meadowlark that will meet the needs of families desiring to live within Parker. Meritage is known for their energy efficient homes which are very appealing to many new homeowners. Meadowlark is planned for a reasonable number of homes, which combined with the limited infrastructure needs, aid in the completion of the neighborhood within the immediate future.

Staff analysis and findings:

Meritage Homes has submitted applications to the Town requesting to annex the Meadowlark property into the Town of Parker. The Town's Charter requires that properties be zoned at the same time as annexation. Therefore a need exists to establish Town of Parker jurisdictional zoning on the Meadowlark parcel.

The Meadowlark property is within the Town's Urban Growth Area and the residential zoning proposed is an appropriate zoning designation given existing and planned residential development in the vicinity of the development. The proposed development is located adjacent to existing Town roadways that are already a part of the Town's Roadway Network Plan.

2. The particular parcel of ground is indeed the correct site for the proposed development.

Applicant analysis and findings:

The characteristics of the site and the location are correct for the proposed development. The site is located within the Town's Urban Growth Area and is designated on the Parker 2035 Master Plan as Residential Medium Density. The site is bounded to the southwest by the Hess Ranch Planned Development and to the northwest by Anthology. It is anticipated that land to the north and east will develop in the near future. The site's natural features in no way limit the development of a neighborhood. The vegetation is weedy grasslands and the topography is gently rolling. Lemon Gulch traverses the western and northern edge of the site but the 100 Year Floodplain is contained and does not impact the development area.

Staff analysis and findings:

The Meadowlark property is suitable for the single-family detached residential development proposed with the Meadowlark PD and Development Plan.

The site is within the Town's Urban Growth Area as established in 2003 and the 3.165 dwelling units per acre density proposed is consistent with the intent of the Town of Parker 2035 Master Plan as described in staff analysis and finding number 8.

3. **There has been an error in the original zoning, or;**
4. **There have been significant changes in the area to warrant a zone change.**

Applicant analysis and findings:

There are no errors in the original zoning, however the times have changed. Significant changes in the area include the approval of the Hess Ranch and Anthology Planned Developments, the continued development in The Pinery, Stepping Stone and commercial development in the immediate vicinity. Also, the improvements to and the designation of Crowfoot Valley Road as a four-lane arterial road which intersects with the planned Chambers Road/Bayou Gulch Road extension has improved the transportation system in the area. Stroh Ranch continues to develop as do new subdivisions within Douglas County and the Town of Parker.

Staff analysis and findings:

There has not been an error in the original zoning. The zoning of the Meadowlark property is being established as part of the annexation into the Town.

Significant changes to the area(s) in the vicinity of the Meadowlark property are anticipated with the 2014/2015 approvals of the Hess Ranch and Anthology North Planned Developments. Hess Ranch and Anthology North Planned Developments are located to the south, west and northwest of the Meadowlark parcel and comprises of nearly 6,000 residential dwelling units at varying densities with intermittent nodes of neighborhood mixed use commercial. The Meadowlark PD residential zoning is consistent in land use and density with the Hess Ranch and Anthology North Planned Development zoning.

5. **Adequate circulation exists and traffic movement would not be impeded by the development.**

Applicant analysis and findings:

Vehicular and pedestrian circulation will be improved with this development. Additional improvements will be provided to Crowfoot Valley Road. A residential collector which is planned through the site will provide access to the properties to the east therefore eliminating a potential future burden on E. Richlawn Drive. Primary access for Meadowlark will be to Crowfoot Valley Road. Secondary access is provided to E. Richlawn Drive. The neighborhood was designed to limit the use of E. Richlawn Drive by making it more difficult to use Richlawn Avenue for access to the Meadowlark and Crowfoot Valley Road.

Staff Analysis and findings:

As with all new development there will be an increase in traffic on road systems. A traffic impact analysis was submitted with the application and reviewed by the Town of Parker Engineering Department.

Engineering staff determined that adequate circulation will exist with the proposed roadway improvements and traffic movement will not be unduly impeded by the Meadowlark development. The Meadowlark zoning application is proceeding through annexation and zoning public hearings with the understanding that the developer will be responsible for incorporating all of the necessary traffic/roadway improvements to meet the Town's standards. The developer must also sign an annexation agreement prior to the annexation public hearing that clarifies the developer's obligations to design and construct the traffic and roadway improvements associated with the Meadowlark Development.

6. Additional municipal service costs will not be incurred which the Town is not prepared to meet.

Applicant analysis and findings:

Municipal services are adequate to serve the site given its close-in location and the existing and planned neighborhoods within the Town. Precautions are made to protect the Town from additional costs in the form of required improvements and the payment of the deficit reduction fee.

Staff Analysis and findings:

A fiscal impact analysis was submitted for the Meadowlark annexation and zoning and reviewed by the Town of Parker Finance Department. Finance analyzed the Meadowlark development revenues generated from property and sales taxes, as well as expenditures for Town service such as police protection, public works and other Town administrative functions. The Finance Department determined that a deficit reduction fee of \$6,928.00 per residential dwelling unit must be paid prior to issuance of a building permit for each residential dwelling unit. The deficit reduction fee ensures that excessive municipal service costs associated with the annexation and zoning of the Meadowlark property will not be incurred.

South Metro Fire Rescue Authority will provide service to this area as it lies within the Authority's boundaries.

7. There are minimal environmental impacts, or impacts can be mitigated.

Applicant analysis and findings:

The site has limited environmental features and natural resources. The rolling grasslands pose no constraints for development. Lemon Gulch will be stabilized in accordance with the OSP as designed and required by Urban Drainage and Flood Control District. No development is proposed with in the 100 Year Floodplain for Lemon Gulch.

Staff Analysis and findings:

Staff anticipates minimal to no environmental impacts created by zoning the Meadowlark property. Lemon Gulch is the site's most significant environmental feature and area(s) nearest to the gulch are being designated open space per the Meadowlark Development Plan and PD Guide.

The Open Space, Trails and Greenways Master Plan does not identify Lemon Gulch as a significant wildlife corridor but protecting the gulch by designating it open space will allow for potential wildlife to use the gulch as a corridor to Cherry Creek.

The applicant has proposed to improve the Lemon Gulch 100 Year Floodplain in accordance with Urban Drainage and Flood Control District requirements. Meritage Homes also hired Environmental Resources Group to conduct a preliminary analysis and report of the Meadowlark site. ERO found that there were no endangered species on the property, no riparian or wetlands habitats, or any aquifer recharge areas or important historical or archeological areas on the site. The site does have potential for Colorado Burrowing Owl habitat and Meritage Homes will conduct a Burrowing Owl survey in accordance with U.S. Fish and Wildlife regulations prior to construction.

8. The proposal is consistent with the Town of Parker Master Plan maps, goals and policies.

Applicant analysis and findings:

The proposed development is consistent with the Residential Medium Density residential designation of the Parker 2035 Master Plan. It meets the maps, goals and policies of the Master Plan as follows:

a. *Master Plan Vision and Guiding Principles*

Meadowlark meets all of the Guiding Principles of the Master Plan but notably it will maintain native open spaces, it will provide high quality architecture and land use design that reflect the aesthetic excellence of the Town; the neighborhood will provide housing choices that allow people to remain in Parker throughout their lives; and promote transportation improvements that provide local and regional connectivity including a regional trail segment that is safe for the community.

b. *Land Use*

Meadowlark is planned in an area that has continued to grow limiting the impacts and need to extend community services long distances given the surrounding planned and existing neighborhoods. The neighborhood will support a high quality of life through excellence in housing design and energy efficiency, parks, trails and open space.

The site is located within the Town's Urban Growth Boundary and the proposal is in compliance with the General Land Use Plan. The Land Use Plan designates this area as Medium Density which allows for up to 3.5 dwelling units per acre. Meadowlark is planned for 268 homes at density of 2.95 dwelling units per acre.

As stated, Meadowlark is planned as a residential neighborhood which will become one of the primary building blocks of the community.

c. *Housing and Neighborhoods.*

Meadowlark contributes to the housing choices within the Town while being sensitive to the environment, quality of design, housing cost, neighborhood characteristics, parks, open spaces and trails and ease of transportation.

d. *Community Appearance and Design*

Meadowlark will contribute to the Town's established character by providing tree lined streets, housing constructed of high quality materials; variety in elevations to enhance the streetscape, energy efficiency and an open feel with parks and open space all contributing to a sense of neighborhood. These elements will be realized by both the residents and visitors to the community.

e. *Natural Resource Protection*

- The Meadowlark site is ideal for a neighborhood given its limited natural resources. The site is primarily weedy grasslands with limited vegetation and cover for wildlife.
- The most significant feature of the site is Lemon Gulch which will be improved and enhanced to manage flows better and to stabilize the eroding banks. Lemon Gulch is proposed as open space as part of the PD Plan.
- There are no endangered species or environmental hazards on the site.
- Visual resources are limited to internal views. There are no views of the Front Range of the Rocky Mountains to the west due to existing land forms.
- The rolling topography of the site does not pose any problems for development. Covenants conditions and restrictions established for the neighborhood will establish controls on light and noise pollution.
- Meritage Homes is nationally recognized for its energy efficient homes
- Landscaping of common areas will incorporate water wise techniques in plantings and irrigation systems. The CC&R's will establish design guidelines for water wise landscaping within the private lots as well.

f. *Open space and Recreation*

The Development Plan for Meadowlark as designed to acknowledge that parks, trails and open spaces are the Town's citizen's most prized amenities. The Plan provides for a regional trail along the north side of Lemon Gulch establishing connectivity eventually to the south within Hess Ranch and to the north to the Cherry Creek Regional Trail. The trail is planned in accordance with the Town's Open Space, Trails and Greenways Master Plan. Four pocket parks are scattered throughout the neighborhood to provide passive and active recreational opportunities within walking distance for all residents.

Staff Analysis and findings:

The 2035 Master Plan identifies the Meadowlark property as being located within the Medium Density Residential Character Area which recommends an overall gross density of 3.5 dwelling units per acre. The Meadowlark PD Guide and Development Plan proposes an overall gross density of 3.165 dwelling units per acre.

The Meadowlark property is also within the Town's Urban Growth Area boundary as established by the 2003 Town of Parker and Douglas County Intergovernmental Agreement and Comprehensive Development Plan which was last amended in 2015. Therefore the Meadowlark property can be annexed, zoned and developed in compliance with applicable Town regulations, Master Plans and IGA standards. The Meadowlark Property annexation, PD Guide and Development Plan satisfies the standards for review of annexation requests for properties within the Town's UGA.

The Meadowlark PD Guide and Development Plan is consistent with the Town's adopted plans, complies with the Land Development Ordinance and provides logical trail connections.

9. **There is adequate water and sewage disposal, water, schools, parks and recreation, and other services to the proportional degree necessary due to the impacts created by the proposed land use(s).**

Applicant analysis and findings:

Water and wastewater services will be provided by Parker Water and Sanitation District. Educational services will be provided by Douglas County School District. Existing and planned schools are located in close proximity to the site. Four pocket parks are scattered throughout the neighborhood within walking distance of all residents. Nearby community and regional parks and recreational facilities include the Cherry Creek Regional Trail, Stroh Ranch Soccer Fields and Salisbury Equestrian Park to name a few.

Staff Analysis and findings:

Parker Water and Sanitation District will continue to provide water and sewage service to the development with inclusion. The costs to extend water and sewer facilities to the project area will be paid for by the developer. Meritage Homes will pay Douglas County School District a cash-in-lieu fee of land dedication for the impact(s) created by the Meadowlark development. Meritage Homes will also pay a capital mitigation fee of \$2558.00 per residential dwelling unit to Douglas County School District. The annexation and zoning of the Meadowlark property to a residential use is not anticipated to generate a disproportionate impact to Town of Parker Parks and Recreation or to Parker Police Department as both entities reviewed and approved this proposal with no further comment.

Section IV.

Referral Agency Comments:

Below are the condensed versions of referral responses received from affected agencies:

Town of Parker Engineering Dept.:

Public Transportation and Stormwater public improvement obligations associated with the Meadowlark property will be required to be designed and constructed prior to issuance of the first building permit for any single family home. Approved

Town of Parker Building Dept.:

Approved

E-470:

No comment

Comcast:

No comment

C-DOT:

No recommendations for modification to Parker Road therefore no new State Highway Access Permits are required.

Town of Parker Comprehensive Planning:

The Comprehensive Planning Division supports the annexation of these parcels into the Town.

Town of Parker Information Technology:

No comment

Town of Parker Police Department:

Approved

City of Lone Tree:

No comment

City of Castle Pines:

No comment

Cherry Creek South Metro District:

No comment

Castle Park Ranch HOA:

No comment

Denver Southeast Suburban Water and Sanitation District:

No comment

Douglas County Planning:

No comment

Douglas County Assessor:

No comment

Douglas County Open Space:

No comment

Denver Regional Council of Governments (DRCOG):

No comment

Douglas County School District:

Payments for cash-in-lieu of land and capital mitigation fee(s) are required at Final Plat and issuance of Building Permits.

Department of the Army Corps of Engineers:

No comment

The Pinery HOA:

No comment

Colorado Interstate Gas Company:

No comment

Town of Parker Forestry and Open Space:

No comment

Colorado Parks and Wildlife:

No comment

Douglas County Attorney:

No comment

Xcel:

Please contact Xcel prior to development

Centennial Airport:

Centennial Airport acknowledges Henry Design Group's response to execute an aviation easement for the property.

Intermountain Rural Electric Association (IREA):

IREA will maintain existing utility easements and facilities on the Meadowlark property.

Cherry Creek Basin Water Quality Authority:

No exceptions taken to the rezoning; however, the Authority reserves the right to review future submittals.

Town of Parker Economic Development:

No comment

Comcast:

No comment

Colorado Geological Survey:

Approved

Tri- County Health Department (TCHD):

TCHD encourages the applicant to consider designing an interconnected system of sidewalks, bike paths and recreation trails to promote walking and bicycling through this development.

Town of Parker Finance:

Deficit reduction fee payment of \$6,928.00 per unit is due prior to issuance of Building Permits.

Ironstone Condominiums:

No comment

Urban Drainage and Flood Control:

No further comment on Zoning. Please provide development plans for Lemon Gulch.

United States Post Office:

No comment

Town of Parker Parks and Recreation:

No comment

Town of Parker Town Clerk:

Approved

CenturyLink:

No comment

Pinery Water and Waste Water District:

No comment

Magellan Pipeline:

This project should not impact any Magellan pipelines.

Town of Parker Fire and Life Safety:

No comment

Parker Water and Sanitation District:

Zoning is approved. The Meadowlark Property is in the process of being included into the Parker Water and Sanitation District service area.

Regional Transportation District (RTD):

No comment

Public Service Company of Colorado (Xcel Energy):

Easements will be required for natural gas distribution and indicated at the time of plat.

E-470:

No comment

South Metro Fire and Rescue District:

No comment

U.S. Fish and Wildlife:

No comment

**Section V.
Recommendation:**

Staff recommends that the Planning Commission recommend that the Town Council approve the zoning request for the Meadowlark Property.

**Section VI.
Attachments:**

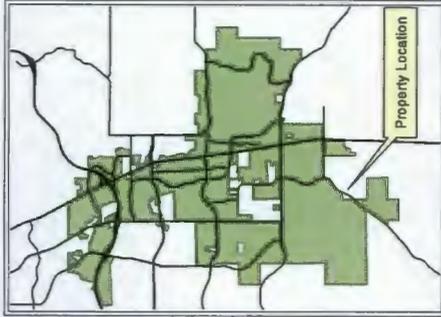
1. Vicinity Map
2. Meadowlark PD Guide and Development Plan
3. Referral Agency Memorandums
4. Maggi Pritchard email

**Section VII.
Proposed Motion(s):**

"I move that the Planning Commission recommend the Town Council approve the zoning request for the Meadowlark Property."



Meadowlark Property Annexation and Zoning

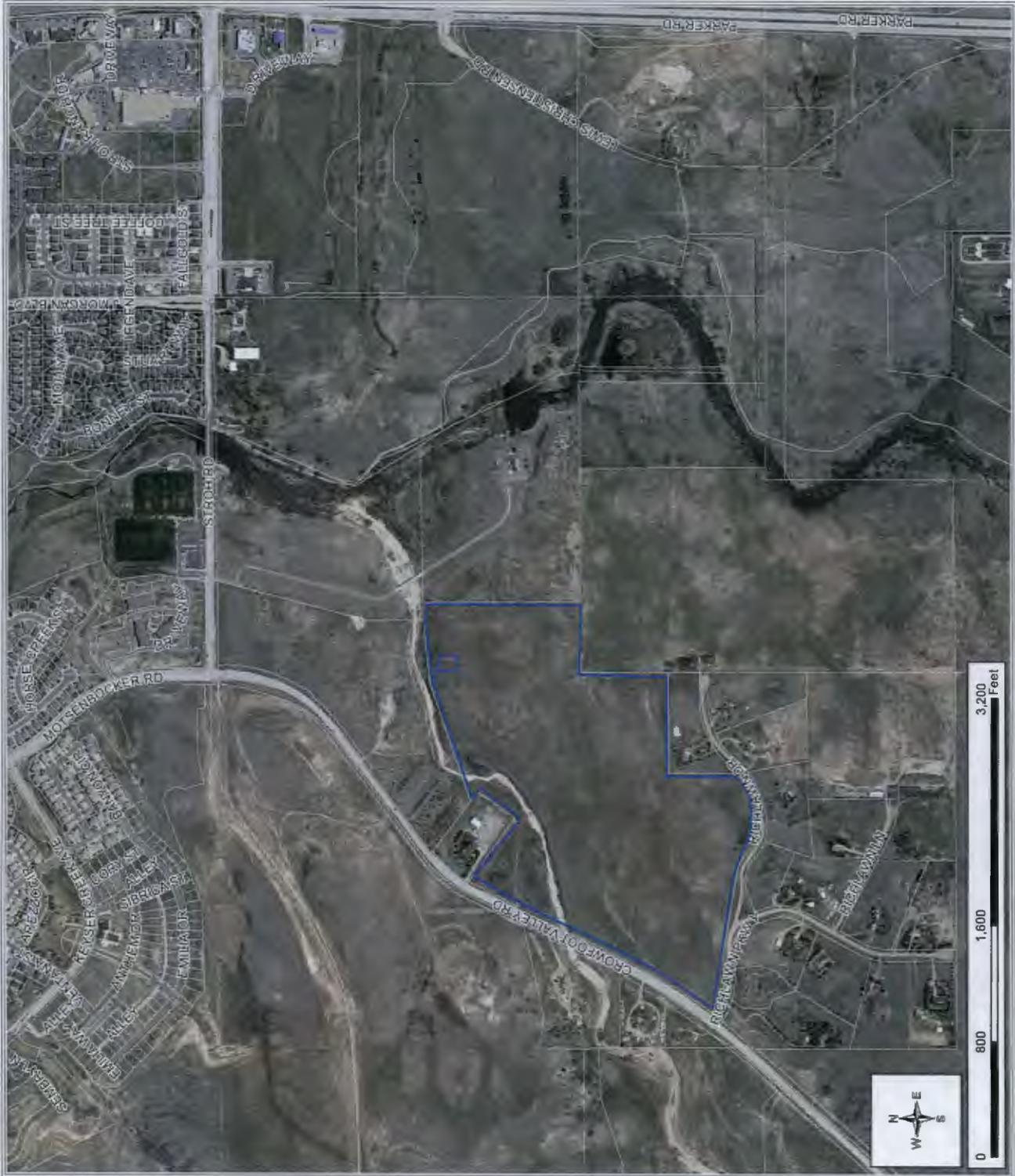


Legend

- Site
- Town Boundary
- Parcels

Unplatted Tract of Land
in the northwest quarter
of Section 4 Township 7
South, Range 66 West of
the 5th Principle Meridian
Douglas County, Colorado

Planner: Ryan McCee
 TC Date: September 6, 2016
 (Zoning Ord. 1st Reading)
 PC Date: September 8, 2016
 TC Date: September 19, 2016
 (Zoning and Annexation
 Ord. 2nd Reading)



PLANNED DEVELOPMENT GUIDE

A. Statement of Purpose

The purpose of the Meadowlark Development Plan and this Development Guide is to establish standards for the development and improvement of the property subject hereto. The standards contained in this Development Guide are intended to carry out the goals of this planned community.

B. Application

These standards shall apply to all property encumbered by the Development Plan and this Development Guide. These zoning regulations and requirements shall become the governing standards for review, approval and modification of all uses occurring on the site.

Provisions of this Development Guide shall prevail and govern the use of the site. The zoning codes and regulations for the Town of Parker shall apply where the provisions of this guide do not address a specific subject or where there is a conflict, in which case the Parker Municipal Code prevails.

AUTHORITY

A. Authority

The authority for this Development Guide is Section 13.04.150 (PD-Planned Development) of the Parker Municipal Code, as amended.

B. Adoption

Adoption of this Development Guide shall be governed by Section 13.04.150 of the Parker Municipal Code, as amended.

C. Enforcement

The provisions of the Development Guide relating to the use of land shall run in favor of the Town of Parker and shall be enforceable, at law or in equity, by the Town of Parker.

D. Additions

The addition of land to this Planned Development shall be considered a zoning amendment and shall be subject to the procedures and requirements contained in Sec. 13.04.240 of the Parker Municipal Code, as amended.

CONTROL PROVISIONS

A. Control Over Use

After adoption of this Development Guide by Town Council:

1. Any new building or other structure, and any parcel of land may be used as provided for in this Development Guide;
2. The use of any existing building, other structure, or parcel of land may be changed or extended as provided for in this Development Guide; and
3. Any existing building or other structure may be enlarged, reconstructed, structurally altered, converted or relocated for any purpose permitted or required by the provisions of this Development Guide.

B. Control Over Location and Bulk

After adoption of this Development Guide by the Town Council, the location and bulk of all buildings and other structures built after the effective date of this Development Guide shall be in conformance with:

1. All applicable standards contained within the Development Plan and this Development Guide; and
2. Any other applicable standards of the Parker Municipal Code, as amended and where such standards are not specifically addressed in, or are in conflict with this Development Guide.

C. Incorporation of the Development Plan

The plan for development of the property subject hereto, including the type, location and boundaries of land use area as shown on the Meadowlark Development Plan, which is attached as Exhibit A and is hereby incorporated by reference into this Development Guide.

GENERAL PROVISIONS

A. Purpose

The purpose of this section is to establish general provisions and clarify standards and requirements for development of the subject lands.

B. Planning Area Boundaries

The boundaries and acreage of all Planning Areas within this Planned Development are shown on the Development Plan. Where a Planning Area abuts an internal local street or drive, the boundary shall be the centerline of the street. Where a Planning Area abuts an arterial or collector street the boundary shall be the right-of-way line of that street as indicated on the Development Plan. Where a Planning Area abuts another Planning Area, the boundary shall be the centerline of the abutting boundaries as shown on the Development Plan.

1. The size of the Planning Area may increase or decrease a maximum of 10% after final determination through the platting process of the alignments of any of the streets and drives, open space areas, shown on the Development Plan.
2. No amendment to this Development Guide shall be required for modifications to Planning Area boundaries internal to the site which results in changes to those areas amounting to less than 10% of the area of each such Planning Area. However, the developer shall keep and submit accurate records of such boundary revisions and shall inform the Town of the same, as required by the Community Development Director if the modification is determined to be minor.
3. Any modifications to a Planning Area that increases or decreases such Planning Area by more than 10% of its size as shown on the Development Plan shall be processed as a zoning amendment in accordance with Section 13.04.240 of the Parker Municipal Code, as amended.
4. The final boundary of any Planning Area shall be established upon approval of final plat(s) for such area.

C. Utility Connections

Approval for connection to Parker Water and Sanitation District facilities or other appropriate utility system shall be required for each principal building is constructed under the terms of this Development Guide within the property subject hereto and notice of such approval shall be provided to the Town Building Inspector.

D. Agricultural Uses

Agricultural activities, and all accessory structures and uses which are customarily incidental or appropriate to farming and ranching shall be permitted within the property subject hereto,

prior to, but not during, the phased development of the project, subject to the Parker Municipal Code, as amended.

DEVELOPMENT STANDARDS

SECTION 1. SINGLE FAMILY DETACHED RESIDENTIAL - PLANNING AREA (PA-1)

Sec. 1-10. Intent

The single family detached neighborhood will include residential lots and accessory uses, parks, open spaces and trail corridors which will connect the residences to the site's amenities.

Sec. 1-20. Uses Permitted by Right

1. Detached single family dwellings
2. Public and private open space, parks, and recreational uses
3. Community building/clubhouse including private indoor and outdoor recreation facilities
- 4.. Public facilities including Public Water Facilities and other public facilities that meet the intent of this district as determined by the Community Development Director
5. Drainage facilities and detention/water quality ponds, subject to the requirements established within Section 13.07.140(c)(9)f of the Parker Municipal Code, as amended; (may not be included in the required 20% open space calculations unless the design of the pond is in accordance with Section 13.07.140(c)(9)f.

Sec.1.30. Development Standards

1. Maximum Gross Density: 3.5 Dwelling units per acre
2. Minimum lot area: 5,000 square feet
3. Maximum Building height: 35 feet
4. Minimum lot width:
 - At the street: 50 feet
 - At a cul-de-sac, knuckle or similarly curved frontage at the street: 30 feet
5. Primary structure front setback (from local street right-of-way):
 - 20 feet to face of garage door
 - 12 feet to face of home when garage is side loaded
 - 10 feet to unenclosed covered porch without living space above the porch
6. Primary and accessory structure side setback: 5 feet
7. Primary structure rear setback:
 - a. 15 feet
 - i. internal lots

- ii. lots adjacent to an open space buffer, open space, park, trail or detention facility
- iii. lots along the eastern perimeter of the parcel
- iv. lots adjacent to open space and landscape buffers along the internal residential collector street and E. Richlawn Drive
- b. 20 feet
 - i. lots along adjacent to the open space buffer along Crowfoot Valley Road
 - ii. lots adjacent to Lot 13 of the Richlawn Subdivision. The builder shall provide a minimum of three trees for within each rear lot of the homes adjacent to Lot 13 within the Richlawn Subdivision. The tree shall be placed within 15 feet of the private rear lot line.
- 8. Accessory structure rear setback: 10 feet
- 9. Corner lot side setback (from local and collector street right-of-way):
 - 10 feet to side of structure
 - 20 feet to face of garage door if side entry
 - 5 feet when adjacent to an open space tract paralleling the street
- 10. Community building/clubhouse including private indoor and outdoor recreation facilities:
 - Setback from all property/tract lines: 20 feet
 - Maximum building height: 35 feet
- 11. Single Family Detached Residential Guidelines: All development shall meet the minimum design criteria established in Chapter 13.10 of the Parker Municipal Code, as amended.

SECTION 2. OPEN SPACE - PLANNING AREA 2 (PA-2)

Sec. 2-10. Description/Intent

1. Open spaces include separation buffers, steep slopes landscape buffers, floodplain and trail corridors. The intent is that all residences have easy access to the site recreational amenities and trail corridors.
2. The intent of the Open Space is to provide for areas intentionally left free from development that are regulated to manage and protect the natural environment. These areas generally left in their natural state provide passive recreational opportunities, provide environmental protection and educational, scientific or aesthetic benefits and may include trail corridors, greenways and undeveloped parks whereas not requiring significant infrastructure such as roads or utility services.

Sec. 2-20. Uses Permitted by Right

1. Trails;
2. Drainage facilities and detention/water quality ponds, subject to the requirements established within Section 13.07.140(c)(9)f of the Parker Municipal Code, as amended; (may not be included in the required 20% open space calculations unless the design of the pond is in accordance with Section 13.07.140(c)(9)f).
3. Picnic area;
4. Informal recreation requiring limited infrastructure or utilities (i.e. frisbee golf, horseshoes, volley ball etc.)
5. Outdoor nature center such as an unpaved path with informational signage, informal seating on rocks or logs, grove of trees and informal gathering place, shelters, outdoor classroom, and like items.

Sec. 2-30. Maximum Structure Height

The maximum height of any structure in the Open Space areas shall be 20 feet.

Sec. 2-40. Setbacks

1. The setback for buildings proposed in the PA-2 shall be determined during the Subdivision process and reviewed by the Planning Commission and Town Council.
2. Lot lines adjacent to Crowfoot Valley Road shall be setback a minimum of 50 feet from the ultimate right-of-way line and an average buffer width along Crowfoot Valley Road of 60 to 65 feet from the ultimate right-of-way line for Crowfoot Valley Road.

SECTION 5. NOTES

1. The developer has the right to build at a lower density in any Planning Area provided it is compatible with adjacent land uses. The finding of compatibility is determined at the time of Sketch Plan. This reduction shall be considered a minor change, enabling the developer to gain approval of the Subdivision without amending the Development Plan.
2. All roadways and access points shown on the Development Plan are conceptually located to provide access to the site and its environs. Final alignments, access and design will be determined at the time of Subdivision.

Meadowlark Development Plan

BEING A PART OF THE NORTHWEST 1/4 OF SECTION 3, & IN THE EAST 1/2 OF SECTION 4,
TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF DOUGLAS, STATE OF COLORADO
90.87 ACRES
288 RESIDENTIAL LOTS

DEVELOPMENT PROGRAM

AREA	Acres	Dwelling Units	Density	Park Dedication	Open Space Dedication
Tract Site Area	90.87	288	2.18 DU/Ac	2.18	1.47*
20% Slopes	1.47				4.75*
Net Site Area	84.93**		3.163 DU/Ac		
PARKS AND OPEN SPACE					
Open Space	18.93*				16.83
Parks	6.41			6.41	

*Includes 20% slope and FEMA 100 Year Floodplain
**Includes 37 acres of Colorado Valley Road ROW dedication

PARKS & OPEN SPACE

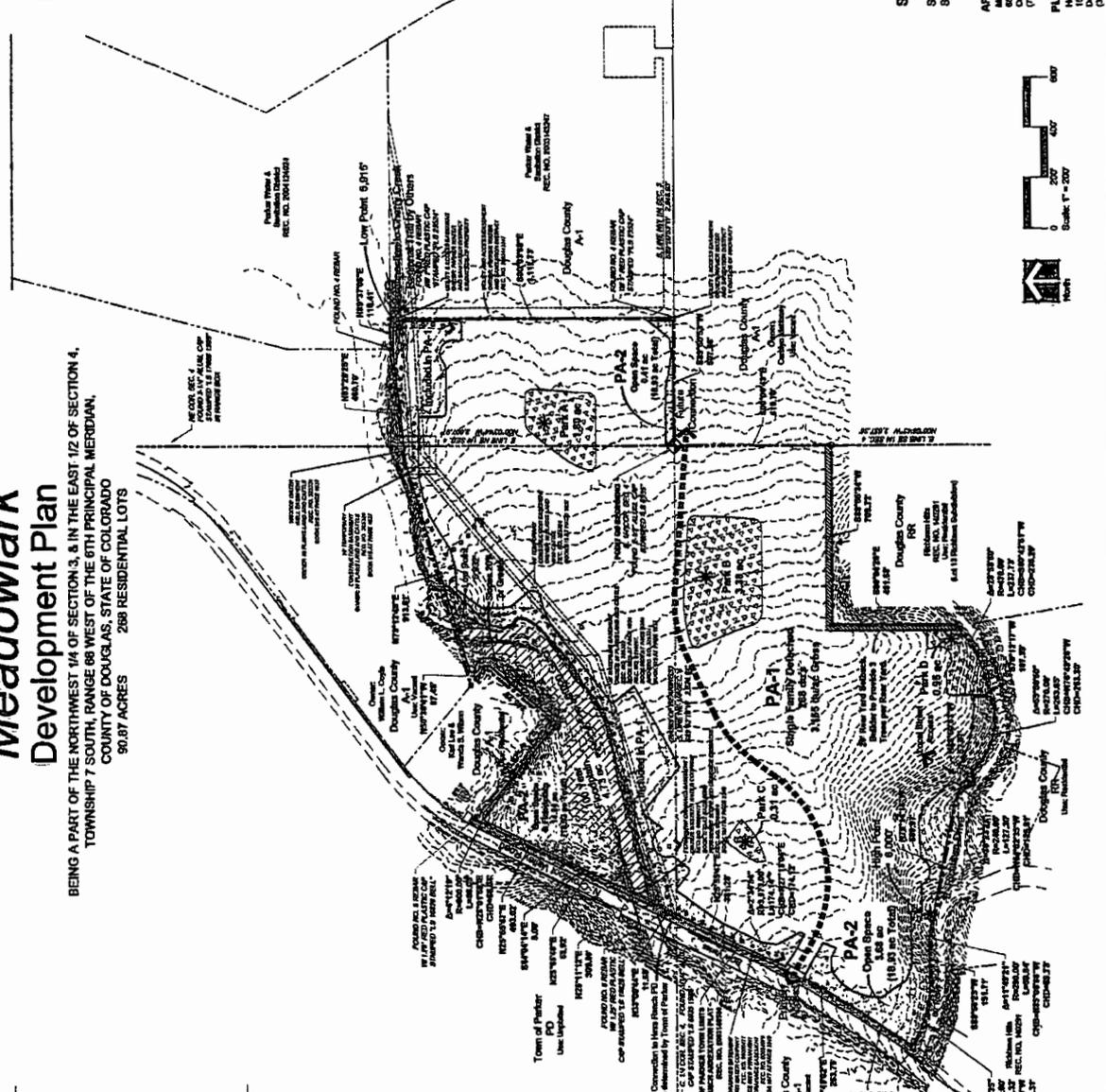
- A. Required Open Space: 90.87 acres x 20% = 18.174 acres
(Detention/Retention Ponds are not included in the proposed open space)
- Provided Open Space: 18.93 acres
- A. Required Parks: 288 DU x .0229 = 6.41 acres
- Provided Parks: 6.41 acres

NOTES

- The site is currently zoned A-1 Agriculture in Douglas County.
- The proposed zoning is to Meadowlark Planned Development.
- The number of units will not exceed 288 units. All units will be single family detached.
- The proposed gross density is 3.163 du/acre. The density shall be computed by dividing the total number of units by the net site area. The gross density shall not be specifically applicable to any individual portion thereof.
- The following utilities will provide services/utilities to the site:
 - Sewer and water services will be provided by the Parker Water and Sanitation District.
 - Police protection and other municipal services will be provided to the property by the Town of Parker.
 - Fire protection will be provided by the South Metro Fire District.
- The approximate location of paths, open space, trails, recreation facilities, and vehicular access points as indicated on the PD Plan are conceptual only. Location, design and size shall be indicated at time of Sketch and Preliminary Plan.
- Access points and five residential collector are conceptual only and will be determined at the time of Sketch and Preliminary Plan.
- Steep slopes exist on the property and are located in the areas shown on the FEMA 100 Year Floodplain. No steep slopes are located within the development area. Development within the steep slope areas shall comply with Section 13.10.100 (Hillside Development) of the Parker Municipal Code, as amended.

LEGEND

- PA-1 / Property Boundary
- PA-1 / Additional areas
- PA-2 / Planning Area Boundary and Open Space (area not included in PA-1)
- Proposed 10' Trail
- Proposed 5' Trail Connection
- Proposed Access Points Primary & Future
- Proposed Access Point Local
- Proposed Residential Collector Street Approximate Alignment
- Section Line
- Existing Easement
- Existing 5' Contour
- Existing 1' Contour
- Existing 100 Year Floodplain
- High Point / Low Point
- Park
- 20% and greater slopes
- 20' Rear Yard Setback, Buffer to provide 3' trees per rear yard.



Sheet Index:

- Sheet 1 - Cover Sheet
- Sheet 2 - Development Plan Exhibit

ENGINEER:

Armen Sharm
Consulting Engineers, Inc.
10011 E. Harvard Ave.
Denver, CO 80231
(303) 541-5833

DEVELOPMENT PLAN

SHEET: 2 of 2
DATE: 6-28-2018
REV: 6-28-2018





August 22, 2016

Ryan McGee
Town of Parker
Community Development Department
20120 East Mainstreet
Parker, CO 80138

RE: Meadowlark PD Rezoning
Case No. Z16-020
TCHD Case No. 4036

Dear Mr. McGee:

Thank you for the opportunity to review and comment on the Meadowlark Rezoning to a PD for 90.87 acres located east of N Crowfoot Valley Rd, south of Stroh Rd. Tri-County Health Department (TCHD) staff has reviewed the application for compliance with applicable public and environmental health regulations and principles of healthy community design. After reviewing the application, TCHD has the following comments.

Community design to support walking and bicycling

Because chronic diseases related to physical inactivity and obesity now rank among the country's greatest public health risks, TCHD encourages community designs that make it easy for people to include regular physical activity, such as walking and bicycling, in their daily routines. Because research shows that the way we design our communities can encourage regular physical activity, TCHD strongly supports community plans that incorporate pedestrian and bicycle amenities that support the use of a broader pedestrian and bicycle network.

In order to promote walking and bicycling through this development, TCHD encourages the applicant to consider the inclusion of the following as they design the community.

1. A system of sidewalks, bike paths and open space trail networks that are well-designed and well-lit, safe, and attractive so as to promote bicycle and pedestrian use.
2. Bicycle and pedestrian networks that provide direct connections between destinations in and adjacent to the community.

Meadowlark PD Rezoning, Z16-020
August 22, 2016
Page 2 of 2

3. Where public transportation systems exist, direct pedestrian access should be provided to increase transit use and reduce unnecessary vehicle trips, and related vehicle emissions. The pedestrian/bicycle networks should be integrated with the existing and future transit plans for the area.
4. Streets that are designed to be pedestrian/bike friendly and to reduce vehicle and pedestrian/bicycle fatalities.
5. Bicycle facilities and racks are provided in convenient locations.

TCHD commends the applicant for providing trails along the north side of Lemon Gulch along with trail connections to the Hess Ranch PD and to Cherry Creek Regional trail. These trails and connections to the regional trail network will promote physical activity for residents and visitors.

Please feel free to contact me at (720) 200-1585 or lbroten@tchd.org if you have any questions regarding TCHD's comments.

Sincerely,



Laurel Broten, MPH
Land Use and Built Environment Specialist
Tri-County Health Department

CC: Sheila Lynch, Keith Homersham, TCHD



July 5, 2016

Ryan McGee
Town of Parker
Community Development Department
Town Hall
20120 East Mainstreet
Parker, CO 80138

RE: Revised Referral, Meadowlark PD, ANX 16-004, Z16-020

Dear Mr. McGee;

Thank you for the opportunity to respond to the above referenced application. This referral supersedes prior letters regarding this application.

Douglas County School District (DCSD) does have comments regarding this application that we would like to resolve prior to approval. This application proposes 268 single-family residential lots on 90.87-acres for a density of 32.95 dwelling units per acre. DCSD has calculated the amount of school land this project would generate and it totals 5.712-acres. The applicant has requested that the land dedication requirement be met by payment of cash-in-lieu of the 5.712- acres of land required. DCSD prefers dedication of land to meet this need, however, will accept cash-in-lieu of land.

Pursuant to Section 13.07.140 (d), (6), (c) of the Parker Development Code, "The cash-in-lieu fee shall be equivalent to the full market value of the acreage required for school land dedication. Value shall be based on anticipated market value after completion of platting and construction of public improvements. The applicant shall submit a proposal for the cash-in-lieu-fee and supply the information necessary for the Town Council to evaluate the adequacy of the proposal. This information shall include at least one (1) appraisal of the property by a qualified appraiser." DCSD would like a complimentary copy of the appraisal prepared. We ask that the fee be paid at the time of final plat.

Additionally, DCSD would ask for a voluntary mid-range contribution towards the Capital Mitigation component to be paid directly to the District. In this case the contribution would amount to \$2558 per residential dwelling unit. Typically this amount would be due at final plat, however, DCSD would accept payment prior to issuance of building permits.

We would like to have these agreements as conditions of approval for the application to move forward. Once we receive that confirmation, DCSD fully supports this application for approval. Thank you for your support of our mutual constituents!

Sincerely,

SCO Consulting, LLC

A handwritten signature in cursive script that reads "Steve Ormiston".

Steve Ormiston
Consultant to DCSD



PARKER
C O L O R A D O

Finance Memorandum

To: Ryan McGee, Associate Planner

From: Don Warn, Finance Director

Date: July 28, 2016

Regarding: Meadowlark

A fiscal impact analysis was done for the proposed annexation. The Town calculates the financial effect of proposed new developments on the Town's future operating budgets. The model looks at a 20-year projection of the incremental revenues and expenditures generated by the project. If the model shows that the fiscal effect of the new development is positive, then this is a factor in recommending approval of the project to Town Council. If the result is negative, then the model calculates a fee, known as the "Deficit Reduction Fee".

Revenues from property taxes and sales taxes are calculated based on estimated per unit revenue generated. Expenditures for Town services, including police protection, public works, planning and the various administrative functions of the Town, are estimated on a per unit basis. These estimates are based on the current year's budgeted expenditures. Expenditures are designated as variable or fixed, and only the variable expenditures are used in determining the estimated costs of serving new development.

All development-specific price and absorption data for this analysis was based on the developer's completed fiscal impact analysis checklist.

The following information was used to develop this Fiscal Impact Analysis. We were asked to analyze a scenario with specific information on market values, number of units, absorption year, absorption timeframe and additional new lane miles.

- Residential multi-family units with absorption beginning in 2018 and full absorption is reached in 2022
 - 275 units with an average market value of \$480,000 per unit
- Number of new lane miles added
 - 5.6

Based on the above information the deficit reduction fee for this project is \$6,928.00 per unit.

Please feel free to contact me directly at 303.805.3107 with any questions.



CENTENNIAL AIRPORT
ARAPAHOE COUNTY PUBLIC AIRPORT AUTHORITY

7800 South Peoria Street, Unit G1
Englewood, Colorado 80112
main: 303.790.0598
fax: 303.790.2129
www.centennialairport.com

June 29, 2016

Mr. Ryan McGee
Town of Parker, Colorado Community Development Department
20120 East Mainstreet
Parker, CO 80138

Re: MEADOWLARK RD REZONING; Z16-020.

Dear Mr. McGee,

Thank you for the opportunity to review the planned rezoning. We have the following comments to make on the project:

- The proposed development lies approximately 6.8 miles from the nearest runway at Centennial Airport and near the Airport Influence Area (AIA). This location will be subjected to numerous aircraft overflights and their associated effects. These effects include, but are not limited to: noise, smoke, dust, fumes and vibrations.
- An aviation easement is recommended for development within and/or near the AIA. Book and page number of the aviation easement must be included on all plats and plans. Please forward a copy of the executed aviation easement to our office.
- Any objects on the site (including cranes used during construction) that penetrate a 100:1 slope from the nearest point of the nearest runway, penetrates the FAA Part 77 airspace surface, impede signals associated with navigational equipment or any other reason the FAA deems necessary will require the filing and approval of FAA Form 7460-1. This form may take 90 days or more for approval. Please visit <https://oeaaa.faa.gov> to utilize the notice criteria tool to confirm filing requirements and to file the FAA Form 7460-1. Please note that this is a State and Federal regulatory requirement. We estimate the max allowable height at this location is 200 feet above ground. Any object above this height will require the filing and approval of a FAA form 7460-1. Runway endpoint data is available from the Airport for engineering calculations. In addition, please have crane operators advise the airport prior to erecting any cranes.

Please feel free to call me if you have any questions.

Sincerely,

Aaron Repp
Noise & Environmental Specialist



CENTENNIAL AIRPORT
ARAPAHOE COUNTY PUBLIC AIRPORT AUTHORITY

7800 South Peoria Street, Unit G1
Englewood, Colorado 80112
main: 303.790.0598
fax: 303.790.2129
www.centennialairport.com

August 15, 2016

Mr. Ryan McGee
Town of Parker, Colorado Community Development Department
20120 East Mainstreet
Parker, CO 80138

Re: MEADOWLARK PD REZONING; Z16-020.

Dear Mr. McGee,

Thank you for the opportunity to review the planned rezoning. We acknowledge the comments from The Henry Design Group.

Please feel free to call me if you have any questions.

Sincerely,

Aaron Repp
Noise & Environmental Specialist



Right of Way & Permits
1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: 303.571.3306
Facsimile: 303.571.3284
donna.l.george@xcelenergy.com

July 1, 2016

Town of Parker Community Development Department
20120 E. Mainstreet
Parker, CO 80138

Attn: Ryan McGee

Re: Meadowlark PD Rezoning, Case # Z16-020

Public Service Company of Colorado's (PSCo) Right of Way and Permits Referral Desk has reviewed the plans for **Meadowlark PD Rezoning**. PSCo has no objection to this proposed rezone, contingent upon PSCo's ability to maintain all existing rights and this amendment should not hinder our ability for future expansion, including all present and any future accommodations for natural gas transmission and electric transmission related facilities.

For planning purposes, please note that PSCo will be requesting 6-foot front lot dry utility easements for natural gas distribution within this single-family residential development. As the project progresses, the property owner/developer/contractor must contact the **Builder's Call Line** at <https://xcelenergy.force.com/FastApp> (Register so you can track your application) or 1-800-628-2121 and complete the application process for any new gas service. It is then the responsibility of the developer to contact the Designer assigned to the project for approval of design details. Additional easements may need to be acquired by separate document for new facilities.

If you have any questions about this referral response, please contact me at (303) 571-3306.

Donna George
Contract Right of Way Referral Processor
Public Service Company of Colorado

COLORADO GEOLOGICAL SURVEY

1801 19th Street
Golden, Colorado 80401



Karen Berry
State Geologist

August 29, 2016

Ryan McGee
Town of Parker Community Development Dept.
20120 E. Mainstreet
Parker, CO 80138

Location:
SW¼ NW¼ Section 3 and
E½ Section 4,
T7S, R66W of the 6th P.M.
39.4705, -104.7782

Subject: Meadowlark Annexation (ANX16-004) and PD Rezoning (Z16-020)
Town of Parker, Douglas County, CO; CGS Unique No. DU-17-0007

Dear Ryan:

Colorado Geological Survey has reviewed the Meadowlark Annexation and PD Rezoning referral. I understand the applicant proposes 268 single family detached dwelling units on 91 acres located on the east side of Crowfoot Valley Road and north of E. Richlawn Drive. Lemon Gulch traverses the northwestern corner of the property. No geologic or geotechnical information was available as part of the referral documents.

CGS visited the site on October 11, 2007 and submitted comments for a proposed topsoil and aggregate extraction pit and reservoir on October 18, 2007. CGS revisited the site on August 15, 2016, and did not observe any surface conditions that would preclude the proposed annexation, residential use, and density.

Geologic hazard mapping. Several geologic hazard maps have been prepared for this area of Douglas County. According to "Soil and Bedrock Conditions and Construction Considerations, North-Central Douglas County, CGS Open File Report 02-8," erodible soils, expansive soils, and unstable soils are *not* mapped as potential hazards within the subject site. Collapsible soils, discussed below, are a potential geotechnical constraint that will need to be considered.

Unstable and potentially unstable slopes. CGS Open File Report OF-78-5, "Geologic Hazards in Douglas County, Colorado," indicates that a portion of the subject site, an approximately 300-ft swath of land north of E. Richlawn Drive, is within a mapped "Unstable or Potentially Unstable Slope" area. The slopes in this area are gentle (10% or less), and it should be noted that all of the lots along N. Richlawn Parkway, E. Richlawn Drive, and E. Richlawn Lane are within the same mapped "Unstable or Potentially Unstable Slope" polygon.

The soils at this site are river terrace deposits associated with Lemon Gulch and Cherry Creek, and are therefore relatively granular. In areas of sandy, cohesionless soils, even gentle slopes can exhibit instability, sloughing, and erosion in response to grading and vegetation changes.

- The applicant's geotechnical consultant should determine, as part of the preliminary geotechnical investigation, maximum allowable temporary and permanent cut and fill slope heights and angles for use in design of site grading, utility, and foundation excavations.

Lemon Gulch flood zone, erosion, and setback. CGS is concerned about the vertical, actively eroding slopes above Lemon Gulch.

- The applicant's geotechnical consultant should evaluate the stability of the slopes above Lemon Gulch, using site-specific soil engineering properties and anticipated water conditions, to determine a conservative setback for improvements adjacent to Lemon Gulch. This will help reduce risks associated with erosion, shallow slope failures, and undercutting to homes, trails, roads, and other improvements.
- The need for retaining walls and/or slope armoring such as riprap to stabilize slopes above Lemon Gulch and reduce the risk of erosion below the planned trail in this area should be evaluated.

Shallow groundwater. Based on the site's granular soils and close proximity to Lemon Gulch and Cherry Creek, groundwater should be expected to occur at relatively shallow depths beneath some or all of the site, at least seasonally, at depths that may preclude full-depth basement construction in some areas. Full-depth basements should be considered only where site-specific water level observations, spanning at least one complete spring-summer-fall cycle, indicate that the minimum required separation distance of three feet (preferably five feet) between lowermost floor levels and shallowest anticipated groundwater levels can be maintained year round.

Soil and bedrock engineering properties. The geologic map for this area (Thorson, J.P., 2005, Geologic map of the Castle Rock North quadrangle, Douglas County, Colorado: Colorado Geological Survey Open-File Report 05-2. Scale 1:24,000) indicates that the site is underlain by terrace alluvium, described as extremely poorly sorted sand and subordinate amounts of gravel.

Potential geotechnical constraints include collapsible soils over most of the site (Soil and Bedrock Conditions and Construction Considerations, North-Central Douglas County, CGS Open File Report 02-8; shapefiles also available online at CGS website). Collapsible soils can settle under loading and wetting, potentially causing damage to homes, roads, and other improvements if not identified and mitigated through proper foundation design, construction, and maintenance.

In summary, CGS has no objection to approval of the annexation and rezoning as proposed, but recommends that the Town require that the applicant obtain a preliminary geotechnical assessment for review at preliminary plat to characterize the site's soil and bedrock engineering properties and groundwater depths, to verify the site's suitability for basements (if basements are proposed), and to determine preliminary grading criteria, including temporary and permanent maximum cut/fill heights, slope angles and Lemon Gulch setbacks.

Thank you for the opportunity to review and comment on this project. If you have questions or require further review, please call me at (303) 384-2643, or e-mail carlson@mines.edu.

Sincerely,



Jill Carlson, C.E.G.
Engineering Geologist



Your kind of place.

Memorandum

To: Ryan McGee, Associate Planner
Date: July 13, 2016
From: Tom Williams, P.E., Director of Engineering
Dave Aden, P.E., Traffic Engineer
Cc: Janet Hermann, P.E., Douglas County Engineering
File

Subject: Meadowlark (Lemon Gulch) PD Zoning – 2nd Public Works Review

The Engineering Department has reviewed the documents submitted for the Meadowlark Planned Development (Zoning). The submittal consisted of the following documents:

<u>Document</u>	<u>Date</u>
Traffic Impact Study	April 2016
Development Plan	May 26, 2016
PD Guide	June 1, 2016

The site is primarily located to the northeast of the Crowfoot Valley and Richlawn Parkway Intersection. Based on our review of the aforementioned documents, we have the following comments:

Traffic and Roadway Review Comments

The following comments concern traffic, access, roadway design, and construction standards for the subject property. They are based upon our review of the submittal documents in accordance with the criteria presented in the Town of Parker's Roadway Design and Construction Criteria, as revised, July 2015. Additional regulatory and planning documents may have been utilized in the review, and are referenced in the comments where appropriate.

General Comments

1. The Property Owner/Developer should refer to the Engineering Memo dated April 16, 2016 for a comprehensive list of the public transportation improvement obligations

associated with this project. An annexation agreement will be drafted to include these obligations and shall be executed upon annexation.

2. No further general comments.

Development Plan

3. No further comments

PD Guide

4. No further comments

Traffic Impact Study

5. Page 19, Impact from adjacent property: The study notes the potential for 294 SF Dwelling Units on the parcel immediately east of this project, but notes the "...additional traffic is considered to be minor...". As the Meadowlark parcel was analyzed as 280 units, a potential doubling of traffic at Crowfoot/Access A is not insignificant. At time of site plan reviews of queue depths should be performed assuming both developments are built out.
6. Page 21, Appendix E, Auxiliary Lane Analysis: The study appears to use the incorrect values for deceleration lengths. Per CDOT Access Code NR-B >40 MPH, required left turn lengths are based on deceleration. This value would be 500' at a 50 MPH posting. It appears there is insufficient spacing between Access A and Richlawn Drive to accommodate both as full movement intersections. At time of subdivision, a detailed roadway engineering will need to be performed with appropriate distances. This may result in a restricted movement for Richlawn Drive (Right-in-Right-out).
7. A traffic signal is expected to meet warrants based on the volumes generated by the Meadowlark development. 100% of the funds for a future signal (to be installed when deemed necessary by the Town) should be provided at time of plat.

Stormwater Review Comments

The following comments concern drainage, erosion and sediment control, and non-point source pollution control issues for the subject property. They are based upon our review of the submittal documents against the criteria presented in the Town of Parker's, *Storm Drainage and Environmental Criteria Manual (SDECM)*, as revised, February, 2014. Additional regulatory and planning documents were utilized in the review, and are referenced in the comments where appropriate.

General Comments

1. The Property Owner/Developer should refer to the Engineering Memo dated April 16, 2016 for a comprehensive list of the public stormwater improvement obligations associated with this project. An annexation agreement will be drafted to include these obligations and shall be executed upon annexation.
2. The applicant is in the process of preparing a conceptual stabilization plan for Lemon Gulch. The Town will be reviewing this plan and the associated cost estimate upon submittal. The Town will negotiate an in lieu fee for these improvements, which will be included in the aforementioned annexation agreement.

The submittal is in general conformance with the Town of Parker's *Storm Drainage and Environmental Criteria Manual* and/or the *Roadway Design and Construction Criteria Manual*. An attempt has been made to identify all of the items that do not meet the Town of Parker's design criteria; however, it remains the developer's responsibility that all criteria are met.

If you have any questions regarding the comments please do not hesitate to call Tom Williams at (303) 840-9546.

McGee, Ryan

From: Maggi Pritchard <maggi@maggipritchard.com>
Sent: Friday, August 26, 2016 2:10 PM
To: McGee, Ryan
Subject: Re: FW: Meadowlark

Thank you, Ryan!

Maggi Pritchard
CRS, GRI, ABR, CNE, CDPE
Cherry Creek Properties, LLC
Maggi@maggipritchard.com
303-898-8164

Sent from my Verizon 4G LTE smartphone

From: McGee, Ryan <rmcgee@parkeronline.org>
Sent: Friday, August 26, 2016 2:03:21 PM
To: Maggi Pritchard
Subject: FW: Meadowlark

Happy Friday Maggi, Please see response below and have a nice weekend.

From: Karen Henry [<mailto:khenry@henrydesigngroup.com>]
Sent: Friday, August 26, 2016 12:39 PM
To: McGee, Ryan
Cc: Richard Cross
Subject: FW: Meadowlark

Hi Ryan,
See below the response to the attached comment from Maggie Pritchard.
Thanks,

Karen Z Henry, PLA
khenry@henrydesigngroup.com

H THE HENRY DESIGN GROUP
LAND PLANNING • LANDSCAPE ARCHITECTURE & DESIGN
1901 WAZEE STREET SUITE 900 DENVER, COLORADO 80202 P 303-446-2960 F 303-446-0950

From: Mike Rocha [<mailto:mike@smrocha.com>]
Sent: Friday, August 26, 2016 12:18 PM
To: 'Karen Henry'
Subject: RE: Meadowlark

Karen,

Below is my response to comment issued.

Comment

I'm on the Stroh Ranch HOA Board of Directors and I'm concerned about the additional cars that will be using Crowfoot Valley Road and Motsenbocker through Stroh Ranch, which narrows from 4 lanes down to 2. There are already more cars than there is road for them on which to drive and these created bottlenecks contribute to reckless driving.

Response

Comment acknowledged. Traffic from proposed Meadowlark development traveling north on Crowfoot Valley Road through the Stroh Road intersection is expected to be minor and not detrimental to the intersection. The referenced roadway narrowing pertains to north-south travel lane transitions between Motsenbocker Road and Crowfoot Valley Road at the Stroh Road intersection. The Town Transportation Plan defines future widening of Crowfoot Valley Road to four lanes. The expressed concern of bottlenecks and reckless driving can be addressed at time of roadway widening done by Town project or adjacent land development.

Mike Rocha | Principal

SM ROCHA, LLC

Traffic and Transportation Consultants

Office: (303) 458-9798 Ext: 102 | Cell: (303) 968-4795

mike@smrocha.com

From: Karen Henry [<mailto:khenry@henrydesigngroup.com>]

Sent: Wednesday, August 17, 2016 4:53 PM

To: mike@smrocha.com

Subject: Meadowlark

Mike, We just received this question from the Town. Can you please address.

Thanks,

Karen Z Henry, PLA

khenry@henrydesigngroup.com



No virus found in this message.

Checked by AVG - www.avg.com

Version: 2016.0.7752 / Virus Database: 4647/12886 - Release Date: 08/26/16



REQUEST FOR TOWN COUNCIL ACTION

TITLE: **ORDINANCE NO. 1.465.3 - A Bill for an Ordinance to Adopt the 2016 Revised Budget for the Town of Parker and to Make Appropriations for the Same**

- PUBLIC HEARING
- CONTRACT
- MOTION

- ORDINANCE FOR 1st READING (10/03/2016)
- ORDINANCE FOR 2nd READING (10/17/2016)
- RESOLUTION



Donald Warn, Finance Director



G. Randolph Young, Town Administrator

ISSUE: Budget revision for the 2016 budget.

PRIOR ACTION: Ordinance 1.465.3 approved on consent October 3, 2016.

FUNDING/BUDGET IMPACT: The table below summarizes the revision by fund and a detailed list of the carryover and supplemental appropriation requests is attached.

	Supplemental	Carryover	Total Expenditures	Revenue	Net Revision
General Fund	\$ 219,608	\$ -	\$ 219,608	\$ 151,043	\$ 68,565
Parks and Recreation Fund	35,000	-	35,000	-	35,000
Cultural Fund	240,370	-	240,370	-	240,370
Recreation Fund	175,500	-	175,500	282,000	(106,500)
Capital Improvement Fund	10,000	-	10,000	-	10,000
Total all funds	\$ 680,478	\$ -	\$ 680,478	\$ 433,043	\$ 247,435

BACKGROUND: The purpose of this budget revision is to amend the appropriated funds for 2016. The total budget amendment is a net increase of \$247,435 which includes supplemental appropriations of \$680,478 and additional revenue of \$433,043. In the General Fund, additional revenue of \$151,043 and supplemental appropriations of \$219,608, in the Parks and Recreation Fund, supplemental appropriations of \$35,000, in the Cultural Fund, supplemental appropriations of \$240,370, in the Recreation Fund additional revenue of \$282,000 and supplemental appropriations of \$175,500, in the Capital Improvement Fund, supplemental appropriations of \$10,000. The detail list of items can be found in Exhibit A attached to the budget Ordinance.

RECOMMENDATIONS: Approve

PREPARED/REVIEWED BY: Donald Warn, Finance Director

ATTACHMENTS: Ordinance 1.465.3

RECOMMENDED MOTION: "I move to approve Ordinance No. 1.465.3 on second reading."

ORDINANCE NO. 1.465.3, Series of 2016

TITLE: A BILL FOR AN ORDINANCE TO ADOPT THE 2016 REVISED BUDGET FOR THE TOWN OF PARKER AND TO MAKE APPROPRIATIONS FOR THE SAME

WHEREAS, the Home Rule Charter of the Town of Parker specifies that Town Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures; and

WHEREAS, upon due and proper notice published and posted in accordance with the Town of Parker Home Rule Charter, said proposed budget revisions are open for inspection by the public at the Town Hall.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The 2016 Revised Budget for the Town of Parker, Colorado, which is attached hereto as **Exhibit A** and incorporated by this reference, is hereby adopted and the monies are appropriated to the various funds as the same are budgeted.

Section 2. **Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. **Severability.** If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

	<u>Revision</u>	<u>2016 Revised Budget</u>
<u>General Fund</u>		
Beginning fund balance		\$ 23,057,430
Revenue		46,153,183
Revenue revision	<u>151,043</u>	<u>151,043</u>
Total revised revenue		46,304,226
Total available		<u>69,361,656</u>
Expenditures		55,076,007
Supplemental appropriation	<u>219,608</u>	
Total expenditure revision		<u>219,608</u>
Total revised expenditures	<u>-</u>	<u>55,295,615</u>
Ending fund balance		<u><u>\$ 14,066,041</u></u>
 <u>Parks and Recreation Fund</u>		
Beginning fund balance		\$ 13,602,628
Revenue		8,373,300
Revenue revision	<u>-</u>	<u>-</u>
Total revised revenue		8,373,300
Total available		<u>21,975,928</u>
Expenditures		18,162,271
Supplemental appropriation	<u>35,000</u>	
Total expenditure revision		<u>35,000</u>
Total revised expenditures		<u>18,197,271</u>
Ending fund balance		<u><u>\$ 3,778,657</u></u>

	<u>Revision</u>	<u>2016 Revised Budget</u>
<u>Cultural Fund</u>		
Beginning fund balance		\$ 1,132,213
Revenue		5,134,810
Revenue revision	<u> </u>	<u> -</u>
Total revised revenue		<u>5,134,810</u>
Total available		<u>6,267,023</u>
Expenditures		5,730,199
Supplemental appropriation	<u>240,370</u>	
Total expenditure revisions		<u>240,370</u>
Total revised expenditures		<u>5,970,569</u>
Ending fund balance		<u><u>\$ 296,454</u></u>
 <u>Recreation Fund</u>		
Beginning fund balance		\$ 1,367,222
Revenue		5,775,650
Revenue revision	<u>282,000</u>	<u>282,000</u>
Total revised revenue		<u>6,057,650</u>
Total available		<u>7,424,872</u>
Expenditures		7,076,332
Supplemental appropriation	<u>175,500</u>	
Total expenditure revisions		<u>175,500</u>
Total revised expenditures		<u>7,251,832</u>
Ending fund balance		<u><u>\$ 173,040</u></u>

	<u>Revision</u>	<u>2016 Revised Budget</u>
<u>Public Improvements Fund</u>		
Beginning fund balance		\$ 14,630,652
Revenue		10,628,384
Revenue revision	-	-
Total revised revenue		<u>10,628,384</u>
Total available		<u>25,259,036</u>
Expenditures		21,962,658
2015 Carry-over	-	
Supplemental appropriation	10,000	
Total expenditure revisions		<u>10,000</u>
Total revised expenditures		<u>21,972,658</u>
Ending fund balance		<u><u>\$ 3,286,378</u></u>

Town of Parker

Detail of Supplemental Revisions to 2016 Budget

General Fund

TRAKiT - Laserfiche Interface	19,000	101-4191-3690
Third Party Roofing Inspections	10,000	101-4242-3390
Special Events & Christmas Tree	13,000	101-4193-3951
Police Support Services Commander Salary (Prorated 2016)	25,000	101-4211-1102
Police Support Services Commander Health Insurance (Prorated 2016)	3,500	101-4211-1410
Police Support Services Commander Life AD&D (Prorated 2016)	150	101-4211-1411
Police Support Services Commander FICAMED (Prorated 2016)	400	101-4211-1420
Police Support Services Commander Retirement (Prorated 2016)	2,500	101-4211-1431
Police Support Services Commander Work Comp (Prorated 2016)	15	101-4211-1460
Police Seizure Expenditures - Patrol Machinery & Equipment	34,050	101-4213-7410
Police Seizure Expenditures - Investigations Machinery & Equipment	11,649	101-4212-7410
Police Seizure Expenditures - Administration Membership Dues	4,367	101-4211-3600
Police Seizure Expenditures - Patrol Small Tools & Equipment	79,405	101-4213-2120
Police Seizure Expenditures - Patrol Computer Equipment	16,572	101-4213-2130

Total General Fund supplemental revision

219,608

Parks & Recreation Fund

Concrete Trail Salisbury Park/Sports Complex	35,000	203-4520-7783
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Total Parks & Recreation Fund supplemental revision

35,000

Cultural Fund

Ruth Chapel Foundation	25,000	205-4545-7200
KBCO Sponsored Concert	40,000	205-4535-3360
Replacement Seating Platforms, Chairs and Carpet Schoolhouse Theater	175,370	205-4545-7200

Total Cultural Fund supplemental revision

240,370

Recreation Fund

Fieldhouse R&M Building	11,000	206-4526-3436
Recreation Center Water	16,000	206-4523-5411
Fitness Sal and Wage - PT	46,500	206-4527-1104
Recreation Center R&M Building	17,000	206-4523-3436
Recreation Center Gas & Electric	65,000	206-4523-3436
H2O'Brien R&M Building	20,000	206-4525-3436

Total Recreation Fund supplemental revision

175,500

Public Improvement Fund

Upgrade Traffic Signal Crown Crest/Parker Adventist Hospital	10,000	301-4293-7544
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Total Public Improvement Fund supplemental revision

10,000

Total supplemental revision

\$ 680,478

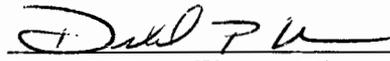


REQUEST FOR TOWN COUNCIL ACTION

TITLE: ORDINANCE NO. 8.24.7 - A Bill for an Ordinance to Amend Section 4.03 of the Parker Municipal Code Concerning Collection of Use Tax

- PUBLIC HEARING
- CONTRACT
- MOTION

- ORDINANCE FOR 1st READING (10/03/2016)
- ORDINANCE FOR 2nd READING (10/17/2016)
- RESOLUTION


Donald Warn, Finance Director


G. Randolph Young, Town Administrator

ISSUE: The processing of paper sales tax returns is costly and an inefficient use of sales tax staff time.

PRIOR ACTION: None

FUNDING/BUDGET IMPACT: There will be an annual cost savings of approximately \$6,500.

BACKGROUND: Currently, sales tax returns are accepted in paper form through the lockbox, through the mail directly to Finance Department and through online submissions. Paper returns account for 51% or 6,417 of the 12,551 returns that were filed through August 31, 2016. For 2015, paper returns accounted for 58% or 10,049 of the 17,227 total returns filed. Processing of paper sales tax returns requires an average of 4 hours a day and also creates additional costs due to lockbox fees charged by our bank. The lockbox fees charged to the Town for the last twelve months was \$6,526.

Utilization of the online option improves the efficiency of the sales tax department, saves valuable staff time that can be allocated to other important tasks such as additional taxpayer education and special projects, it improves accuracy and is more cost effective. In order to incentivize taxpayers to move to the online filing option, we are proposing the imposition of a fee for those that elect to file a paper return of \$20.00 per return. The cost to the taxpayer for filing online is \$0.60 if they choose the electronic check method or it is .025% if they pay by credit card. Taxpayers that file a zero (\$0) return are not charged. The cost for filing online is equivalent to filing a paper return if you only consider the cost of the envelope, check stock and a \$0.47 postage stamp, but the true cost is much higher when you factor in the staff time it takes to process a check payment; filing online will actually save the taxpayer money.

RECOMMENDATIONS: Approve

PREPARED/REVIEWED BY: Donald Warn, Finance Director

Council Action Form

Date 10/17/16

Page 2

ATTACHMENTS: Ordinance 8.24.7

RECOMMENDED MOTION: "I move to approve Ordinance No. 8.24.7 on second reading."

ORDINANCE NO. 8.24.7, Series of 2016

TITLE: A BILL FOR AN ORDINANCE AMENDING CHAPTER 4.03 OF THE PARKER MUNICIPAL CODE TO ESTABLISH A FEE FOR PAPER SUBMITTAL OF SALES TAX RETURNS

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Section 4.03.450, Tax returns–Content, consolidation and reporting periods, of the Parker Municipal Code is hereby amended by the addition of a new subsection (d), which shall read as follows:

4.03.450 Tax returns–Content, consolidation and reporting periods

* * *

(d) Beginning January 1, 2017, all returns required by this Code shall be submitted electronically over the internet or transmitted by such other similar electronic means as may be specified by the Director. Any taxpayer electing to submit a return on paper shall be assessed an administrative fee in an amount to be set by resolution to defray the cost to the Town of the additional handling and processing time required for paper filings.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this _____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

10/5/2016²

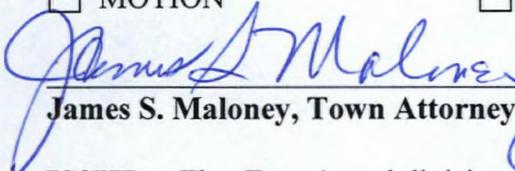


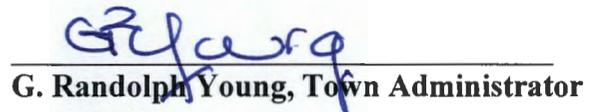
REQUEST FOR TOWN COUNCIL ACTION

TITLE: ORDINANCE NO. 3.01.110 – A Bill for an Ordinance to Amend Section 13.07.130 of the Parker Municipal Code Concerning the Surveyor Certification

- PUBLIC HEARING
- CONTRACT
- MOTION

- ORDINANCE FOR 1st READING (10/03/2016)
- ORDINANCE FOR 2nd READING (10/17/2016)
- RESOLUTION


James S. Maloney, Town Attorney


G. Randolph Young, Town Administrator

ISSUE: The Town’s subdivision regulations require a surveyor to certify that a plat was prepared in accordance with the applicable standards of the practice. The Colorado Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors has modified the type of certification surveyors are allowed to provide, which requires an amendment to the Town’s subdivision regulations.

PRIOR ACTION: The Town adopted the language for the plat certification to be provided by a surveyor in 1995.

FUNDING/BUDGET IMPACT: None.

BACKGROUND: Professional land surveyors are licensed by the Colorado Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors (the “Board”). The Board establishes the rules governing the form of certifications that can be signed by professional land surveyors. The Town needs to amend the form of certification for professional land surveyors contained in the Town’s subdivision regulations to conform with the rules established by the Board.

RECOMMENDATION: Approve.

PREPARED/REVIEWED BY: Tom Williams, Director of Engineering; Alex Mestdagh, Senior Development Review Engineer; James S. Maloney, Town Attorney

ATTACHMENT: Ordinance No. 3.01.110

RECOMMENDED MOTION: "I move to approve Ordinance No. 3.01.110 on second reading."

ORDINANCE NO. 3.01.110, Series of 2016

TITLE: A BILL FOR AN ORDINANCE TO AMEND SECTION 13.07.130 OF THE PARKER MUNICIPAL CODE CONCERNING THE SURVEYOR CERTIFICATION

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Subsection 13.07.130(c) of the Parker Municipal Code is amended to read as follows:

13.07.130 Certifications.

* * *

(c) Surveyor.

I, (~~Surveyor~~ name), a ~~duly registered~~ **Professional Land Surveyor licensed to practice land surveying** in the State of Colorado, do hereby certify that ~~this the survey of (plat name) was truly and correctly represents the results of a survey made on (date of survey),~~ by me or directly under my ~~direct~~ supervision on or about the day of _____, 20____, and that the survey is based upon my knowledge, information and belief that all monuments exist as shown hereon; it has been prepared in accordance with applicable standards of practice, that mathematical closure errors are less than 1:50,000 (second order); and that said plat has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivisions or surveying of land and all provisions, within my control, of the Town ~~Subdivision~~ regulations. This survey is not a guaranty or warranty, either expressed or implied, and the accompanying plat accurately and properly shows said minor development plat and the survey thereof.

I attest the above on this _____ day of _____ 20_____.

(Signature) _____
(Name) _____, P.L.S. # _____
For and on behalf of (Company Name)

(Signature)
Colorado Registered Professional
Land Surveyor
(Surveyor's Name)
Surveyor # _____

Surveyor's seal shall appear with this certificate.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2016.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney