

**COLORADO DEPARTMENT OF TRANSPORTATION  
SERVICES –TO SITE UTILITY AGREEMENT**

Contract routing #

Utilities Project #

Sub-account #

Construction Project #

Sub-account #

Location

**THIS AGREEMENT**, made on \_\_\_\_\_, is between the State of Colorado for the use and benefit of the Colorado Department of Transportation (“CDOT” or “the State”) and \_\_\_\_\_ (“Utility Owner” or “Contractor”).

**RECITALS:**

1. The 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.
2. The State considers it necessary to make certain improvements to the State Highway System ("the highway improvements"), which are located in \_\_\_\_\_ County, on State Highway Number \_\_\_\_\_, between mile point \_\_\_\_\_ and \_\_\_\_\_.
3. The highway improvements necessitate the installation of new utility facilities or power source(s) (the "Work"), to provide power or other utility services to the highway improvements. The Work is specifically described in attached Exhibit B and generally described as follows:

The State desires to engage the Owner to provide the necessary materials and labor required for the Work.

4. The Owner is the sole source for the performance of the Work within its established service area or pursuant to franchise, as determined by the Public Utilities Commission of the State of Colorado or as otherwise authorized by law, and no other entity can lawfully provide the necessary services at the location of the highway improvements.
5. The State and the Federal Highway Administration (FHWA) have determined that by reason of the minor nature of the Work, it is inherently cost effective for the Owner to perform the Work on a force account basis, as provided in 23 CFR 635.205 (section 635.205 of Part 635, subpart B of Title 23, Code of Federal Regulations).
6. The State and Owner must comply with the applicable provisions of 23 CFR 635, and with the State's policy on the "Accommodation of Utilities Within State Highway System Rights of Way" (CDOT Policy Directive No. 390), to obtain federal participation in the costs of the Work.
7. The State has determined that the Owner is ready, qualified, and able to perform or have performed the Work in a satisfactory, cost effective manner.
8. This Agreement is executed by the State under authority of §§ 24-103-205, 43-1-110, and 43-1-114, C.R.S., as amended, and applicable federal law.

**NOW THEREFORE, THE UTILITY OWNER AND STATE AGREE:**

1. Incorporations By Reference, Order of Precedence. The Utility Owner will perform or has performed the Work in accordance with the applicable provisions of 23 CFR 645, the CDOT Utility Accommodation Code 2CCR 601-18, and CDOT Policy Directive 390, and as required by the plans attached hereto as Exhibit B, all of which are incorporated herein by this reference as terms and conditions of this Agreement. Any conflict between such terms shall be resolved in the priority they are listed herein.
2. Notice to Proceed. After full execution of this Agreement, the State will issue a written Notice to Proceed to authorize the Owner to proceed with the Work. The Owner shall not start performance of the Work until it receives the written Notice to Proceed from the State. Upon receipt of such written notice, the Owner shall prosecute such Work diligently to completion in such manner as will not result in avoidable delay or interference either to the State's performance of the highway improvements or to the Owner's performance of the Work. The Owner shall perform (or have performed) the Work in accordance with all applicable terms and conditions of this Agreement.
3. Timeframe for Completion of Work. The Owner shall coordinate the performance of the Work with the construction of the highway improvements, as directed by the State. The Owner shall complete the Work within working days after the Owner receives the Notice to Proceed from the State.
4. Reimbursement. The State will reimburse the Owner for the eligible costs of the Work, after the Work is completed to the State's satisfaction and the State has received proper billing. The State and the Owner have estimated the costs of the Work as shown in the Owner's Cost Estimate, Exhibit A. The amount the State pays the Owner under this Agreement will be full compensation for all the eligible costs incurred by the Owner while performing the Work.
5. Determination of Work Costs. The Utility Owner will determine the direct and indirect Work costs under a work order accounting procedure prescribed by a Federal or State regulatory body and estimated at \$ . If this amount is greater than \$80,000, the State may retain 10% of billed costs, up to a maximum of 5% of the original contract amount, prior to the required audit by the State, as required by section 24-91-103, CRS. Based on the eligible costs as determined by the State's audit, the State will either pay the Owner for costs in excess of any previous payments, or the Owner will reimburse the State for any previous payments in the excess of eligible costs, whichever is applicable. The State will pay the Owner intermediate payments for Work completed when requested and properly billed. Payments will not be made more than once a month.
6. Work Costs In Excess of Original Estimate. If the Owner determines during the performance of the Work that the estimated Work costs will increase beyond the Exhibit A estimate amount, the Owner must enter into a supplemental contract amendment with the State, or obtain a Funding Letter or Change Order Letter from the State, in order to increase the amount of this Agreement, before performing any Work which will exceed the current estimated cost. The Owner must itemize all cost increases on the final billing.
7. Timeframe for Submission of Billings. The Owner must submit to the State all billings for the costs of the performance of the Work not later than 120 days after completing the Work.

8. **Separate Invoice for Easements.** If the Owner incurs costs to acquire replacement right-of-way or an easement under this Agreement, the Owner must invoice such costs separately.
9. **Salvage Value of Materials Removed.** If the performance of the Work involves the removal of materials, the Owner must give credit to the State for the salvage value, as explained in 23 CFR 645.117(h). The Owner shall not dispose of any recovered materials before the State has inspected such materials and approved such disposal.
10. **Recording Costs.** In the performance of the Work, the Owner and its subcontractor(s) shall develop and record the costs of the Work in accordance with 23 CFR 645.117 and any other applicable regulations or procedures. The Owner shall provide the State with all information and reports required by state or federal statute or regulation.
11. **Records Retention.** The Owner shall maintain a complete file of all records, documents, communications, and other written materials which pertain to the operation of programs or the delivery of services under this contract, and shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. All such records, documents, communications and other materials shall be the property of the State, and shall be maintained by the Owner in a central location and the Owner shall be custodian on behalf of the State.
12. **Audit, Inspection of Records, and Monitoring.** The Owner shall permit the State, Federal Government, or any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Owner's records during the term of this contract and for a period of three (3) years following termination of this contract or final payment hereunder, whichever is later, to assure compliance with the terms hereof, or to evaluate the Owner's performance hereunder. The Owner shall also permit these same described entities to monitor all activities conducted by the Owner pursuant to the terms of this contract. As the monitoring agency may in its sole discretion deem necessary or appropriate, such monitoring may consist of internal evaluation procedures, examination of program data, special analyses, on-site check, or any other reasonable procedure.
13. **Term of Agreement.** Unless otherwise terminated as provided in clauses 14. or 15., this Agreement will terminate on the date the State makes final payment to the Owner, provided that the continuing records retention, audit, and access provisions described in clauses 11. and 12. shall terminate only as provided in such clauses.
14. **Termination for Convenience.** The State may terminate this contract at any time the State determines that the purposes of the distribution of State moneys under the contract would no longer be served by completion of the Work. The State shall effect such termination by giving written notice of termination to the Owner and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Owner under this contract shall, at the option of the State, become its property, and the Owner shall be entitled to receive just and equitable compensation for any satisfactory services and supplies delivered. If the contract is terminated by the State as provided herein, the Owner will be paid an amount which bears the same ratio to the total compensation as the services satisfactorily performed bear to the total services of the Owner covered by this contract, less payments of compensation previously made, provided,

however, that if less than sixty percent (60%) of the services covered by this contract have been performed upon the effective date of such termination, the Owner shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this contract) incurred by the Owner during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. In no event shall reimbursement under this clause exceed the contract amount. If this contract is terminated for cause, or due to the fault of the Owner, the Termination for Cause or Default provision shall apply.

15. Termination for Cause. If through any cause, the Owner shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Owner shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Owner of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Owner under this contract shall, at the option of the State, become its property, and the Owner shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Owner shall be obligated to return any payment advanced under the provisions of this contract. Notwithstanding the above, the Owner shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Owner, and the State may withhold any payment to the Owner for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Owner is determined. If after such termination it is determined, for any reason, that the Owner was not in default, or that the Owner's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.
16. Option Letter. This is an indefinite quantity contract for the Work specified herein. The parties have estimated the quantity and total cost of the Work, but such estimates are estimates only.
  - a) Funds are available and encumbered in the amount of the estimate. The Owner shall not perform Work, which creates a financial obligation of the State exceeding the amount of available funds specified herein. [Additionally, the Owner shall notify the State's representative when State commitments, paid and unpaid, are within 10% of the amount of funds available]. The State is not liable beyond the amount of funds specified as available in this paragraph.
  - b) The State may allocate more or less funds available on this contract using an Option Letter substantially equivalent to Exhibit C and bearing the approval of the State Controller or designee. The Option Letter shall not be deemed valid until it shall have been approved by the State Controller or designee.
17. Contract amendment. All other changes shall be modified by amending this contract for any of the following reasons:
  - a) Where the agreed changes to the specifications result in an adjustment to the price, delivery schedule, or time of performance.
  - b) Where the agreed changes result in no adjustment to the price, delivery schedule, or time of performance. The contract amendment shall contain a mutual release of claims for adjustment of price, schedules, or time of performance.

- c) Where the changes to the contract are different from unit prices to be paid for the Work described herein as established in the contract or Exhibit A.
- d) Where the changes to the contract are priced equal to or less than established catalog generally extended to the public or on prices or rates set by law or regulation. Other bilateral modifications not within the terms of this paragraph must be executed by formal amendment to the contract, approved in accordance with state law.

- 18. Federal/State Requirements. The Owner shall at all times in the performance of the Work 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, which are incorporated herein by this reference as terms and conditions of this Agreement, including those in 23 CFR 645.115 requiring award of subcontracts by public bid. The Owner shall also require compliance with these statutes and regulations in subgrant agreements permitted under this contract. The Owner must obtain State approval prior to the award of any subcontract between the Owner and another party for the performance of any part of the Work.
- 19. Legal Authority. The Owner warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Owner to its terms. The person(s) executing this contract on behalf of the Owner warrant(s) that such person(s) have full authorization to execute this contract.
- 20. Federal/State Requirements. The Utility Owner shall at all times in the performance of the Work 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, which are incorporated herein by this reference as terms and conditions of this Agreement, including those in 23 CFR 645.115 requiring award of subcontracts by public bid. The Owner shall also require compliance with these statutes and regulations in subgrant agreements permitted under this contract. The Owner must obtain State approval prior to the award of any subcontract between the Owner and another party for the performance of any part of the Work.
- 21. Legal Authority. The Owner warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Owner to its terms. The person(s) executing this contract on behalf of the Owner warrant(s) that such person(s) have full authorization to execute this contract.
- 22. This paragraph is only applicable to agreements between the State and the City and County of Denver. The Utility Owner 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 Utility Owner.

End of Section

**SPECIAL PROVISIONS 1-8 BELOW APPLICABLE TO INTERGOVERNMENTAL CONTRACTS ONLY**

1. Controller's Approval. CRS 24-30-202 (1). This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.
2. Fund Availability. CRS 24-30-202 (5.5). Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. Indemnification. To the extent authorized by law, the Contractor shall indemnify, save, and hold harmless the State, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract. No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now or hereafter amended.
4. INDEPENDENT CONTRACTOR. 4 CCR 801-2. THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.
5. Non-Discrimination. The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.
6. Choice Of Law. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall 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 will not invalidate the remainder of this contract to the extent that the contract is capable of execution. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

7. Software Piracy Prohibition. Governor's Executive Order D 002 00. No State or other public funds payable under this Contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.
8. Employee Financial Interest. CRS 24-18-201 & CRS 24-50-507. The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

**SPECIAL PROVISIONS A-I BELOW APPLICABLE TO NONGOVERNMENTAL CONTRACTS ONLY**

- A. Controller's Approval. CRS 24-30-202 (1). This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.
- B. Fund Availability. CRS 24-30-202 (5.5). Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- C. Indemnification. The Contractor 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 incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.
- D. INDEPENDENT CONTRACTOR. 4 CCR 801-2. THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.
- E. Non-Discrimination. The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.
- F. Choice Of Law. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any

provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall 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 will not invalidate the remainder of this contract to the extent that the contract is capable of execution. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

- G. Vendor Offset. CRS 24-30-202(1) & CRS 24-30-202.4. Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.
- H. Software Piracy Prohibition. Governor's Executive Order D 002 00. No State or other public funds payable under this Contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.
- I. Employee Financial Interest. CRS 24-18-201 & CRS 24-50-507. The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

**SPECIAL PROVISIONS (1)-(8) BELOW APPLICABLE TO CITY & COUNTY OF DENVER  
CONTRACTS ONLY**

- (1) Controller's Approval. CRS 24-30-202 (1). This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.
- (2) Fund Availability. CRS 24-30-202 (5.5). Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- (3) Indemnification. To the extent authorized by law, the Contractor shall indemnify, save, and hold harmless the State, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract. No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now or hereafter amended. The Utility Owner, by

execution of this contract containing this indemnification clause, does not waive the operation of any law concerning the parties' ability to indemnify.

- (4) INDEPENDENT CONTRACTOR. 4 CCR 801-2. THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.
- (5) Non-Discrimination. The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.
- (6) Choice of Law. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall 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 will not invalidate the remainder of this contract to the extent that the contract is capable of execution. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.
- (7) Software Piracy Prohibition. Governor's Executive Order D 002 00. No State or other public funds payable under this Contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.
- (8) Employee Financial Interest. §§ 24-18-201 & CRS 24-50-507. The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

**\* Persons signing for the Utility Owner hereby swear and affirm that they are authorized to act on behalf of the Utility Owner and acknowledge that CDOT is relying on their representations to that effect and accept personal responsibility for any and all damages CDOT may incur for any errors in such representation.**

**UTILITY OWNER:**

Name: \_\_\_\_\_  
Printed Legal Name of Utility Owner  
as registered with th4e Colorado Secretary of State

\_\_\_\_\_  
Signature of Authorized Representative \*

\_\_\_\_\_  
Printed Name and Title of Authorized Representative

**STATE OF COLORADO:**

John W. Hickenlooper, GOVERNOR

By: \_\_\_\_\_  
for the Executive Director  
Colorado Department of Transportation

**LEGAL REVIEW:**

For John W. Suthers, Attorney General

By \_\_\_\_\_

**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

§ 24-30-202, C.R.S. requires the State Controller to approve all State contracts. This contract is not valid until signed and dated below by the State Controller or delegate. The Utility Owner contractor is not authorized to begin performance of the Work until such time. If the Utility Owner begins performing the Work prior thereto, the State of Colorado is not obligated to pay for such performance or for any goods or services provided hereunder.

**STATE CONTROLLER:**  
David J. McDermott, CPA

By: \_\_\_\_\_

Date: \_\_\_\_\_