

Station 16  
8130 3<sup>rd</sup> Street  
Wellington, CO 80549



Station 17  
108 E County Road 66  
Fort Collins, CO 80524

## **Wellington Fire Protection District REGULAR BOARD MEETING AGENDA**

The **Regular Board Meeting** of the Wellington Fire Protection District will be called to order at **5:00 pm** on **August 21st, 2024**. The meeting will be held at **Station 16** located at 8130 3<sup>rd</sup> St, Wellington, CO 80549. Please contact our administrative office for any attendance accommodations. **Zoom Meeting information is listed below.**

### **Pledge of Allegiance**

### **Roll Call**

### **Additions/Deletions to the Agenda**

### **Conflicts of Interest**

### **Correspondence**

### **Public Comment**

Any property owner, business owner, or resident of the District that would like to comment on items not listed on the agenda may be restricted to a 3-minute limit per person.

### **Employee Recognition**

### **Guests or Presentations**

### **Consent Agenda**

- Regular Board Meeting Minutes for July 17th, 2024

### **Chief's Report**

### **Employee Report**

### **Committee Reports**

### **District Business**

- 1. Monthly Financial Report**
- 2. New Engine Financing options**
- 3. Sample Salaries at 70% of Budget**
- 4. New engine purchase agreement**

Station 16  
8130 3<sup>rd</sup> Street  
Wellington, CO 80549



Station 17  
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## Wellington Fire Protection District

5. Fire Marshal Contract
6. New Fee Schedule
7. Open house for Chief
8. Open House for new engine in Jan
9. Community Communications
10. Committee to research Tax Initiative
11. Command Vehicle Proposal
12. 10. Move to enter an executive session pursuant to Sec. 24-6-402(4)(e)(I), C.R.S., for purposes of discussing matters that may be subject to negotiations and instructing negotiators regarding potential reimbursements to the Chief.

Other

Calendar Items

Next Board Meeting –Regular Board Meeting – August 21, Station 16 @ 5:00 PM

Adjournment

## Wellington Fire Protection District Zoom Meeting information

Join Zoom Meeting  
<https://us02web.zoom.us/j/7848079463>  
Meeting ID: 784 807 9463  
+ 17209289299,,7848079463# US (Denver)



## **Wellington Fire Protection District REGULAR BOARD MEETING MINUTES**

The **Regular Board Meeting** of the Wellington Fire Protection District was called to order at **5:00 pm** on **July 17, 2024**. The meeting was held at **Station 16** located at 8130 3<sup>rd</sup> St, Wellington, CO 80549.

### **Pledge of Allegiance**

**Roll Call - Bollinger, Gaiter, Standing, Hunter (zoom) present. Lopez absent**

**Additions/Deletions to the Agenda - None**

**Conflicts of Interest - None**

**Correspondence - None**

### **Public Comment**

Any property owner, business owner, or resident of the District that would like to comment on items not listed on the agenda may be restricted to a 3-minute limit per person.

### **Employee Recognition**

**Guests or Presentations**

### **Consent Agenda**

- Regular Board Meeting Minutes for June 19, 2024 - M/S Gaiter/Standing, Accepted unanimously.

**Chief's Report**

**Employee Report**

**Committee Reports**

**District Business**

- 1. Monthly Financial Report**
- 2. Fire Marshal contract and new fee schedule**
- 3. Salary comparison discussion**
- 4. Apparatus, Equipment, and Facilities maintenance/replacement schedule discussion**

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**Wellington Fire Protection District**  
(extraction equipment purchase)

5. Engine purchase
6. Xcel Wildfire Mitigation Plan discussion
7. Union Contract Negotiation Update
8. Community events discussion

**Other**

**Calendar Items**

**Next Board Meeting –Regular Board Meeting – August 21, Station 16 @ 5:00 PM**

**Adjournment - M/S Standing/Hunter 18:51, unanimous voice votes.**

**Station 17 Responses 8/1/2023 through 7/31/2024**

	<u>EMS</u>	<u>MVA</u>	<u>In District Fire Resp.</u>	<u>Fire Resp. w/Eng16</u>	<u>Other</u>	<u>Totals</u>
Aug-23	8	3	1	12	2	26
Sep-23	3	1	1	5	2	12
Oct-23	0	2	1	12	0	15
Nov-23	0	1	2	7	1	11
Dec-23	11	0	3	8	4	26
Jan-24	14	0	2	15	2	33
Feb-24	15	0	5	4	2	26
Mar-24	12	1	3	14	3	33
Apr-24	14	1	4	14	9	42
May-24	14	2	8	8	9	41
Jun-24	11	2	5	6	3	27
Jul-24	12	5	2	8	2	29
<b>Totals</b>	<b>114</b>	<b>18</b>	<b>132</b>	<b>113</b>	<b>39</b>	

**Ave/mo 26.75**



# MONTHLY SERVICE ACTIVITY



Month July 2024

TOTAL INCIDENT ACTIVITY: **99** YTD: 671

Fire and Related Services: **33** YTD: 250 EMS Responses: **66** YTD: 421

Overlapping (July) **13 (13.1%)**

Overlapping (YTD) **142 (21.6%)**

**GREEN** = Increase from prev. month

**RED** = Decrease " " "

**Incidents of Interest:**

**07/18/2024 Grass Fire, I-25** E16 and E173 (Brush) responded to assist Nunn FD with a grass fire along the interstate highway. Units worked to control spread of fire and assist with extinguishment.

**07/25/2024 MVA E16 and E17** responded to a report of an MVA on N County Rd 15. Units arrived to find a single vehicle that had rolled over with 1 code red pt. Units assisted with scene stabilization, pt. care and helicopter LZ set-up until decision was made for ground transport with WFPD FF driving.

07/28/2024 MVA E16, E17, PFA Eng. I-25 Units responded to an MVA with entrapment on I-25. Companies removed 1 pt. using extrication tools and assisted with transport.

**WELLINGTON FIRE PROTECTION DISTRICT  
ACCOUNTANT'S REPORT  
July 31, 2024**

DESCRIPTION	AMOUNT	
July 31, 2024	Operating and Admin Expenditures	\$ 51,175
July 31, 2024	Personnel Costs	194,890
	<b>TOTAL EXPENDITURES - CURRENT MONTH</b>	<b><u>\$ 246,066</u></b>

**CURRENT MONTHS REVENUES**

Tax Revenue	\$ 112,129
Interest Income	14,247
Other Income	1,377
<b>TOTAL RECEIPTS - CURRENT MONTH</b>	<b><u>\$ 127,753</u></b>

**CASH BALANCE PER FINANCIAL STATEMENTS**

	Balance per reconciliation
COLOTRUST - Non Impact Fee accounts	<u>\$ 3,145,849</u>
Points West Bank	35,401
Total Cash per reconciliation	<u>\$ 3,181,251</u>
	July 31, 2024
Less uncleared disbursements for current month	(51,175)
Add: Cash at County Treasurer	112,129
<b>Net Cash Available</b>	<b><u>\$ 3,242,205</u></b>

**UNAUDITED**  
**WELLINGTON FIRE PROTECTION DISTRICT**  
**REVENUE & EXPENDITURE STATEMENT**  
**ACTUAL & BUDGET FOR PERIOD ENDING ON JULY 31, 2024**  
**COMBINED FUNDS**

	JULY ACTUAL	YTD ACTUAL	2024 BUDGET	% OF BUDGET USED	BUDGET REMAINING
<b>REVENUE</b>					
4010 Larimer County Tax	\$ 91,294	\$ 4,117,387	\$ 3,806,885	108.16%	\$ (310,502)
4013 Tax Rebate Payment	-	-	(14,399)	0.00%	(14,399)
4012 Specific Ownership Tax	20,836	136,345	215,000	63.42%	78,655
4014 Wildland Firefighting	-	-	60,000	0.00%	60,000
4016 Service Fees	-	780	30,000	2.60%	29,220
4017 Miscellaneous	1,377	5,526	5,000	110.52%	(526)
4018 Donations and events	-	2,413	25,000	9.65%	22,587
4020 Interest income	14,247	60,010	7,000	857.29%	(53,010)
4015 Impact Fees	-	6,727	40,000	16.82%	33,273
Proceeds from issuance of debt	-	-	250,000	0.00%	250,000
<b>TOTAL REVENUE</b>	<b>127,753</b>	<b>4,329,188</b>	<b>4,424,486</b>	<b>97.85%</b>	<b>95,298</b>
<b>PERSONNEL COSTS</b>					
5010 Salaries and Wages	123,562	862,242	1,759,958	48.99%	897,716
5020 Wildland Salaries	-	-	45,000	0.00%	45,000
5025 District Board Compensation	400	4,200	9,000	46.67%	4,800
5030 Overtime	18,795	104,714	159,000	65.86%	54,286
5110 Employer Taxes	2,426	23,626	57,839	40.85%	34,213
5120 Workers Compensation	8,170	49,815	74,000	67.32%	24,185
5210 Health, Dental & Vision Insurance	27,426	162,936	156,340	104.22%	(6,596)
5230 FPPA	13,974	91,582	263,135	34.80%	171,553
5270 Employee Appreciation	137	516	2,650	19.47%	2,134
<b>TOTAL PERSONNEL COSTS.</b>	<b>194,890</b>	<b>1,299,630</b>	<b>2,526,922</b>	<b>51.43%</b>	<b>1,227,292</b>
<b>OPERATING AND ADMIN EXPENDITURES</b>					
6010 Utilities	4,461	25,916	53,000	48.90%	27,084
6020 Station Supplies	869	2,800	5,000	56.00%	2,200
6030 Building Repairs & Maintenance	4,304	12,980	20,000	64.90%	7,020
6110 Equipment and Supplies	3,653	34,170	85,225	40.09%	51,055
6120 Fuel Expenses	872	9,840	28,000	35.14%	18,160
6140 Repairs and Maintenance - Equipment	8,020	32,177	80,000	40.22%	47,824
6210 IT services and supplies	7,911	27,438	27,500	99.77%	62
6220 Radio Maintenance	-	-	2,500	0.00%	2,500
6230 Dispatch	5,848	9,254	14,500	63.82%	5,246
6310 Health & Safety	1,350	16,046	28,500	56.30%	12,454
6320 Wildland Travel Expenses	-	-	15,000	0.00%	15,000
6330 Training & Seminars	1,250	2,624	57,000	4.60%	54,376
7010 Office Expenses	193	2,906	2,000	145.32%	(906)
7020 Accounting/Finance	6,913	41,725	60,000	69.54%	18,275
7025 Legal Expenses	-	2,246	10,000	22.46%	7,754
7030 Professional Fees	514	55,597	104,525	53.19%	48,928
7050 Fees/Dues/Subscriptions	122	5,188	9,500	54.61%	4,312
7060 Payroll Processing Fees	843	7,923	8,500	93.21%	577
7070 County Treasurer Fees	1,826	82,297	74,338	110.71%	(7,959)
7080 Bank Service Charge	60	251	300	83.58%	49
7100 Insurance	-	32,682	44,300	73.77%	11,618
7110 District Board Expenses	2,169	2,448	5,000	48.97%	2,552
6336 Contingencies	-	-	80,000	0.00%	80,000
8003 Volunteer Pension Contribution	-	-	105,876	0.00%	105,876
6401 Public Education	-	-	1,000	0.00%	1,000
6402 Supplies-Enforcement/Investigate	-	-	3,000	0.00%	3,000
7942 Capital Outlay	-	26,200	40,000	65.50%	13,800
9015 Debt Service / Lease Payments	-	155,799	415,799	37.47%	260,000
<b>TOTAL OPERATING AND ADMIN EXPENDI</b>	<b>51,175</b>	<b>588,507</b>	<b>1,380,363</b>	<b>42.63%</b>	<b>791,856</b>
<b>TOTAL EXPENDITURES</b>	<b>246,066</b>	<b>1,888,137</b>	<b>3,907,285</b>	<b>48.32%</b>	<b>2,019,148</b>
<b>EXCESS (DEFICIENCY) OF REVENUE OVER (UNDER) EXPENDITURE</b>	<b>\$ (118,313)</b>	<b>\$ 2,441,052</b>	<b>\$ 517,202</b>		<b>\$ 1,923,850</b>

Not audited, reviewed or compiled. No assurances provided. All Disclosures are omitted.



**Wellington Fire Protection District**  
**Monthly Disbursements**  
As of July 31, 2024

Type	Date	Num	Name	Memo	Clr	Split	Debit	Credit	Balance
<b>CASH-IMPACT FEES</b>									174,481.69
<b>100 · Colotrust - Impact Fees</b>									174,481.69
Total 100 · Colotrust - Impact Fees									174,481.69
Total CASH-IMPACT FEES									174,481.69
<b>CASH - GENERAL FUND</b>									2,542,454.07
<b>101 · Colotrust Plus</b>									2,147,202.44
Transfer	07/10/2024			Funds Tran...	X	103 · Operat...		50,000.00	2,097,202.44
Deposit	07/19/2024			Deposit	X	110 · Cash ...	1,135,333.77		3,232,536.21
Transfer	07/23/2024			Funds Tran...	X	103 · Operat...		100,000.00	3,132,536.21
Deposit	07/30/2024			Deposit	X	4020 · Inter...	13,313.09		3,145,849.30
Total 101 · Colotrust Plus									3,145,849.30
<b>102 · Colotrust Prime</b>									207,875.55
Deposit	07/19/2024			Deposit	X	4020 · Inter...	934.04		208,809.59
Total 102 · Colotrust Prime									208,809.59
<b>103 · Operating - Points West - 5485</b>									144,138.37
Check	07/01/2024	ACH	Xcel Energy		X	6010 · Utilities		1,029.89	143,108.48
Check	07/03/2024	ACH	Centurylink / Lu...		X	6010 · Utilities		181.23	142,927.25
Check	07/07/2024	ACH	Microsoft		X	6210 · I.T. a...		141.78	142,785.47
Check	07/07/2024	ACH	Vectra Bank		X	2201 · Vectr...		7,776.93	135,008.54
Check	07/09/2024	ACH	Senergy Petrole...	Invoice: SE...	X	6120 · Fuel ...		871.88	134,136.66
Check	07/10/2024	ACH	Pinnacol Assura...	Invoice 217...	X	5120 · Work...		8,170.33	125,966.33
Transfer	07/10/2024			Funds Tran...	X	101 · Colotr...	50,000.00		175,966.33
Check	07/11/2024	ACH	Poudre Valley R...		X	6010 · Utilities		277.14	175,689.19
Check	07/11/2024	ACH	Fire And Police ...		X	2140 · FPP...		14,219.92	161,469.27
Check	07/12/2024	ACH	Rocky Mountain ...	Invoice: 98...	X	5210 · Healt...		211.75	161,257.52
Check	07/12/2024	ACH	Rocky Mountain ...		X	5210 · Healt...		593.45	160,664.07
General Journal	07/12/2024	2022...			X	5010 · Salar...		54,328.30	106,335.77
General Journal	07/12/2024	2022...			X	5010 · Salar...		11,007.57	95,328.20
General Journal	07/12/2024	2022...			X	5010 · Salar...		974.97	94,353.23
General Journal	07/12/2024	2022...			X	5010 · Salar...		63.30	94,289.93
Check	07/15/2024	ACH	Northern Colora...	Acct 40911	X	6010 · Utilities		39.00	94,250.93
Check	07/15/2024	ACH	Northern Colora...	acct 40810	X	6010 · Utilities		39.00	94,211.93
General Journal	07/15/2024	2022...			X	5010 · Salar...		491.68	93,720.25
General Journal	07/15/2024	2022...			X	5010 · Salar...		21.48	93,698.77
Bill Pmt -Check	07/16/2024	7148	ADT Commercial		X	2000 · ACC...		498.30	93,200.47
Bill Pmt -Check	07/16/2024	7149	Bound Tree Med...		X	2000 · ACC...		599.03	92,601.44
Bill Pmt -Check	07/16/2024	7150	Centurylink / Lu...		X	2000 · ACC...		1,274.31	91,327.13
Bill Pmt -Check	07/16/2024	7151	City of Ft. Collins		X	2000 · ACC...		5,280.00	86,047.13
Bill Pmt -Check	07/16/2024	7152	Colorado Divisio...		X	2000 · ACC...		60.00	85,987.13
Bill Pmt -Check	07/16/2024	7153	Colorado Firefig...		X	2000 · ACC...		4,185.00	81,802.13
Bill Pmt -Check	07/16/2024	7154	Concentra/Gene...		X	2000 · ACC...		72.00	81,730.13
Bill Pmt -Check	07/16/2024	7155	First Responder ...		X	2000 · ACC...		1,350.00	80,380.13
Bill Pmt -Check	07/16/2024	7156	Frank Parts Com...		X	2000 · ACC...		96.49	80,283.64
Bill Pmt -Check	07/16/2024	7157	Front Range Ov...		X	2000 · ACC...		690.00	79,593.64
Bill Pmt -Check	07/16/2024	7158	Green & Associa...		X	2000 · ACC...		4,250.00	75,343.64
Bill Pmt -Check	07/16/2024	7159	ICC-		X	2000 · ACC...		1,023.00	74,320.64
Bill Pmt -Check	07/16/2024	7160	Life Assist		X	2000 · ACC...		146.59	74,174.05
Bill Pmt -Check	07/16/2024	7161	Lyons Gaddis		X	2000 · ACC...		565.10	73,608.95

2:36 PM

08/10/24

Accrual Basis

## Wellington Fire Protection District Monthly Disbursements As of July 31, 2024

Type	Date	Num	Name	Memo	Clr	Split	Debit	Credit	Balance
Bill Pmt -Check	07/16/2024	7162	Municipal Emerg...		X	2000 · ACC...		134.37	73,474.58
Bill Pmt -Check	07/16/2024	7163	Nicoletti-Flater A...			2000 · ACC...		250.00	73,224.58
Bill Pmt -Check	07/16/2024	7164	Portable Restroo...		X	2000 · ACC...		96.00	73,128.58
Bill Pmt -Check	07/16/2024	7165	Poudre Fire Auth...			2000 · ACC...		3,330.42	69,798.16
Bill Pmt -Check	07/16/2024	7166	Prothman Comp...			2000 · ACC...		6,500.00	63,298.16
Bill Pmt -Check	07/16/2024	7167	Standard Insura...		X	2000 · ACC...		1,286.10	62,012.06
Bill Pmt -Check	07/16/2024	7168	Vertical Bridge T...		X	2000 · ACC...		567.65	61,444.41
Bill Pmt -Check	07/16/2024	7169	Wellington Profe...			2000 · ACC...		373.86	61,070.55
Check	07/17/2024	ACH	AFLAC		X	2100 · Payr...		353.44	60,717.11
Deposit	07/18/2024			Deposit	X	4017 · MISC...	1,376.73		62,093.84
Check	07/19/2024	ACH	Anthem Blue Cr...	Invoice: 04...	X	5210 · Healt...		17,984.20	44,109.64
Check	07/19/2024	ACH	Paylocity		X	7060 · Payr...		843.27	43,266.37
Check	07/20/2024	ACH	Northern Colora...	acct 17301	X	6010 · Utilities		74.09	43,192.28
Check	07/20/2024	ACH	Republic Services	Invoice: 06...	X	6010 · Utilities		225.72	42,966.56
Transfer	07/23/2024			Funds Tran...	X	101 · Colotr...	100,000.00		142,966.56
Bill Pmt -Check	07/24/2024	7170	Department of th...			2000 · ACC...		80.50	142,886.06
Check	07/25/2024	ACH	Black Hills Energy		X	6010 · Utilities		158.52	142,727.54
Check	07/26/2024	ACH	Town of Wellingt...	acct; 1628.01	X	6010 · Utilities		228.55	142,498.99
Check	07/26/2024	ACH	Xcel Energy	Invoice: 88...	X	6010 · Utilities		925.73	141,573.26
General Journal	07/26/2024	2022...			X	5010 · Salar...		47,430.23	94,143.03
General Journal	07/26/2024	2022...			X	5010 · Salar...		10,022.58	84,120.45
General Journal	07/26/2024	2022...			X	5010 · Salar...		1,804.22	82,316.23
General Journal	07/26/2024	2022...			X	5010 · Salar...		175.43	82,140.80
Check	07/29/2024	ACH	Rocky Mountain ...		X	5210 · Healt...		485.76	81,655.04
Check	07/29/2024	ACH	Fire And Police ...		X	2140 · FPP...		13,717.47	67,937.57
Check	07/30/2024	ACH	Fire And Police ...		X	2140 · FPP...		12,735.31	55,202.26
Total 103 · Operating - Points West - 5485							151,376.73	240,312.84	55,202.26
<b>108.000 · Operating - 1st National Bank</b>									43,237.71
Total 108.000 · Operating - 1st National Bank									43,237.71
Total CASH - GENERAL FUND							1,300,957.63	390,312.84	3,453,098.86
<b>TOTAL</b>							<b>1,300,957.63</b>	<b>390,312.84</b>	<b>3,627,580.55</b>



215 S. Seth Child Road  
 Manhattan, KS 66502  
 Phone: 888.777.7850  
 Fax: 888.777.7875  
 www.clpusa.net

# MUNICIPAL INFORMATION FORM

- Version #20200512

## REQUIRED FINANCIAL INFORMATION

- Three (3) most recently completed audits, tax returns, or year-end financial statements
- If the fiscal year-end of the last audit is more than 6 months old, provide year-to-date Balance Sheet & Income Statement
- Current Years' Budget

\*\*\*To process the application, return form with the **required** financial information\*\*\*

## GENERAL INFORMATION FOR MUNICIPALITY

Legal Name of Lessee	Primary Contact Name	Title
Address	Office Phone Number	Cell Phone Number
City, State, Zip	Email	
County	Second Contact Name	Title
Fed. Tax ID #	Office Phone Number	Cell Phone Number
Bond Rating (if applicable)	Email	
Name of Insurance Carrier/Agent	Name of Attorney	Phone Number
Phone Number	Do you self-insure for property and/or liability insurance? <input type="checkbox"/> Yes <input type="checkbox"/> No	Attorney Email
Population Served	Coverage Area (sq. miles)	Number of fleet vehicles

## TRANSACTION INFORMATION

Equipment Description:	Equipment Cost:
Delivery Date:	Down Payment:
# of Payments:	Trade In/Other:
Payment Frequency: Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-Annual <input type="checkbox"/> Annual <input type="checkbox"/>	Amount to Finance:

## ESSENTIAL USE & VENDOR INFORMATION

Replacement: <input type="checkbox"/> Yes <i>If yes, explain why equipment is being replaced.</i> <input type="checkbox"/> No <i>If no, explain why the addition is needed:</i>			
New Equipment: <input type="checkbox"/> Yes <input type="checkbox"/> No	Vehicle Year (if applicable):	Miles (if used):	
Vendor/Dealer:	Salesperson's Name:	Phone:	Email:

## OTHER INFORMATION

If lessee's expenditures exceeded revenues during any of the last 3 years, explain why and describe the actions taken to correct shortfall:

Will the lessee issue more than \$10,000,000 in new tax-exempt debt in this Calendar Year?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has the lessee defaulted or non-appropriated on a prior lease, bond, or legal obligation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are there any judgments, liens or bankruptcies on/against the municipality?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Completed By:	Title:	Date:

I certify everything stated in this form is correct to the best of my knowledge. Lessor is authorized to verify any information on this form with an appropriate third party as necessary to complete the credit review process. Lessor is authorized to contact our insurance to obtain carrier information as part of the credit review process. My signature above authorizes said agent to release this information to CLP. Upon submission of this form, we are committing to work with CLP and acknowledge failure to complete the lease in its entirety may result in a \$500 documentation fee being charged.



Phone: 888.777.7850  
Fax: 888.777.7875  
Cell: 785.313.3154  
215 S. Seth Child Road  
Manhattan, KS 66502  
[www.clpusa.net](http://www.clpusa.net)

July 18, 2024

**Customer Name: Wellington FPD, CO**

Equipment: One New Rosenbauer Custom Pumper  
Sales Representative: Jason Kline @ IKON

Community Leasing Partners, a Division of *Community First National Bank*, is pleased to present the following financing options for your review and consideration.

### Option 1

Total Cost:	\$ 1,300,000.00	Payment Frequency:	Annual
Down Payment:	\$ 100,000.00	First Payment:	April 1, 2025
Escrow Discount:	\$ 10,114.00		
<b>Amount Financed:</b>	<b>\$ 1,189,886.00</b>		
Term in Years:	<u>10</u>	<u>12</u>	<u>15</u>
Payment:	\$153,788.17	\$134,339.99	\$116,103.48
Factor:	0.129246	0.112902	0.097575
Interest Rate:	5.34%	5.34%	5.47%

### ESCROW STRUCTURE

Escrow Funding Date August 15, 2024

Date Available	Total Available	Disbursement
September 1, 2024	\$282,224.00	Equipment
December 15, 2024	\$917,776.00	Truck
<b>Total:</b>	<b>\$1,200,000.00</b>	

- Interest Earnings in the escrow account have been estimated and used to reduce borrowing cost incurred by the Lessee.
- Premature disbursements or delay in funding to the escrow may result in shortage of funds needed to fulfill vendor
- **THERE ARE NO DOCUMENTATION OR CLOSING FEES ASSOCIATED WITH THIS PROPOSAL.**
- The quoted interest rate is valid for 10-days from the date of the proposal. To lock in the interest rate, a credit submission would be required, and a credit approval attained within the same 10-day period. This financing is to be executed & funded within 30 days of the date of the proposal or Lessor reserves the right to adjust the interest rate. The proposal is subject to credit review and approval and mutually acceptable documentation.
- This proposal has been prepared assuming the lessee is bank qualified and that the proposed lease qualifies for Federal Income Tax Exempt Status for the Lessor under Section 103 of the IRS Code.

**Thank you** for allowing Community Leasing Partners the opportunity to provide this proposal. If you have any questions regarding the options presented, need additional options, or would like to proceed with a financing, please contact me at 888.777.7850.

Respectively,  
Blake J. Kaus  
Vice President & Director of Leasing  
[blakekaus@clpusa.net](mailto:blakekaus@clpusa.net)



Phone: 888.777.7850  
 Fax: 888.777.7875  
 Cell: 785.313.3154  
 215 S. Seth Child Road  
 Manhattan, KS 66502  
[www.clpusa.net](http://www.clpusa.net)

July 18, 2024

**Customer Name: Wellington FPD, CO**

Equipment: One New Rosenbauer Custom Pumper  
 Sales Representative: Jason Kline @ IKON

Community Leasing Partners, a Division of *Community First National Bank*, is pleased to present the following financing options for your review and consideration.

**Option 1**

Total Cost:	\$ 1,300,000.00	Payment Frequency:	Annual
Down Payment:	\$ 200,000.00	First Payment:	April 1, 2025
Escrow Discount:	\$ 9,039.00		
<b>Amount Financed:</b>	<b>\$ 1,090,961.00</b>		
Term in Years:	<u>10</u>	<u>12</u>	<u>15</u>
Payment:	\$141,002.50	\$123,171.20	\$106,450.85
Factor:	0.129246	0.112902	0.097575
Interest Rate:	5.34%	5.34%	5.47%

**ESCROW STRUCTURE**

Escrow Funding Date August 15, 2024

Date Available	Total Available	Disbursement
September 1, 2024	\$282,224.00	Equipment
December 15, 2024	\$817,776.00	Truck
<b>Total:</b>	<b>\$1,100,000.00</b>	

- Interest Earnings in the escrow account have been estimated and used to reduce borrowing cost incurred by the Lessee.
- Premature disbursements or delay in funding to the escrow may result in shortage of funds needed to fulfill vendor
- **THERE ARE NO DOCUMENTATION OR CLOSING FEES ASSOCIATED WITH THIS PROPOSAL.**
- The quoted interest rate is valid for 10-days from the date of the proposal. To lock in the interest rate, a credit submission would be required, and a credit approval attained within the same 10-day period. This financing is to be executed & funded within 30 days of the date of the proposal or Lessor reserves the right to adjust the interest rate. The proposal is subject to credit review and approval and mutually acceptable documentation.
- This proposal has been prepared assuming the lessee is bank qualified and that the proposed lease qualifies for Federal Income Tax Exempt Status for the Lessor under Section 103 of the IRS Code.

**Thank you** for allowing Community Leasing Partners the opportunity to provide this proposal. If you have any questions regarding the options presented, need additional options, or would like to proceed with a financing, please contact me at 888.777.7850.

Respectively,  
 Blake J. Kaus  
 Vice President & Director of Leasing  
[blakekaus@clpusa.net](mailto:blakekaus@clpusa.net)

Wellington Fire  
Wage comparison  
12/31/2024

Employee	Rate	Hours	Cost	Avg rate of Evans and Estes	Adjusted to greater of comparison or current	Change
A Firefighter	19.67	2,912	57,279		57,279	-
A Firefighter	19.67	2,912	57,279		57,279	-
B Firefighter	20.45	2,912	59,550		59,550	-
B Firefighter	20.45	2,912	59,550		59,550	-
C Firefighter	21.27	2,912	61,938		61,938	-
C Firefighter	21.27	2,912	61,938		61,938	-
A Engineer	22.81	2,912	66,423	24.10	70,179	3,756
A Engineer	22.81	2,912	66,423	24.10	70,179	3,756
B Engineer	22.81	2,912	66,423	24.10	70,179	3,756
B Engineer	24.40	2,912	71,053	26.82	78,100	7,047
C Engineer	24.40	2,912	71,053	26.82	78,100	7,047
C Engineer	24.40	2,912	71,053	26.82	78,100	7,047
A Lou	27.20	2,912	79,206	25.07	79,206	
B Lou	29.46	2,912	85,788	26.07	85,788	
C Lou	29.46	2,912	85,788	26.07	85,788	
A Cap	32.48	2,912	94,582	34.43	100,260	5,678
B Cap	30.94	2,912	90,097	31.75	92,456	2,359
C Cap	30.94	2,912	90,097	31.75	92,456	2,359
Admin			71,500		71,500	-
Chief			160,000		160,000	-
<b>Total Budgeted Wages</b>			<u>1,527,020</u>		<u>1,569,826</u>	<u>42,806</u>
<b>Benefits</b>			<u>580,267</u>		<u>596,534</u>	<u>16,266</u>
<b>Overtime</b>			<u>159,000</u>		<u>180,403</u>	<u>21,403</u>
<b>Total wages and benefits</b>			<u><u>2,266,287</u></u>		<u><u>2,346,763</u></u>	<u><u>80,476</u></u>

## AGREEMENT FOR SERVICES

- 1. PARTIES.** The parties to this Agreement are the **WELLINGTON FIRE PROTECTION DISTRICT** ("District") and **FIRE MARSHAL SERVICES LLC** ("Contractor").
- 2. RECITALS AND PURPOSE.** District is a Title 32 special district Contractor desires to provide certain professional services to District as an independent contractor. Section 8-40-202(2), C.R.S., establishes a rebuttable presumption that any person engaged to perform services for an employer is an employee, and expressly authorizes a written agreement to rebut such presumption by containing an appropriate disclaimer. The purpose of this Agreement is to set forth the terms and conditions of the Contractor's provision of said services and to establish the relationship between the parties, and accordingly, the parties covenant and agree to the following.
- 3. SCOPE OF SERVICES.** Contractor shall provide those services as are described and set forth in the attached **EXHIBIT A** which is incorporated by this reference ("Services").
- 4. CONSIDERATION.** In consideration of the provision of Services described herein, District agrees to pay Contractor the District's then-current fee for all plan review services and a contract rate \$100.00 (one hundred dollars) for completing all annual inspections. Contractor shall bill the District for services rendered on a monthly basis, utilizing an itemized statement showing the Services completed for that billing period.
- 5. LEGAL RELATIONSHIP OF PARTIES.** For all purposes, Contractor is an independent contractor of District and not an employee. This Agreement shall not be deemed to create any partnership or joint venture or other enterprise between the parties or any employer- employee relationship and is executed, in part, to rebut the presumptions set forth in Sec. 8-40-202(2), C.R.S. Contractor shall be responsible for obtaining Contractor's own workers' compensation, medical, health, unemployment and other insurance and coverage as Contractor deems necessary or as may be required by law. Contractor is required to make appropriate filings with federal, state, and local taxing authorities to include income tax, social security, Medicare and other payments. No federal or state withholdings shall be made by District on any compensation paid to Contractor and for services rendered under this Agreement. All compensation paid will be reported by the District at the end of each fiscal year utilizing IRS Form 1099.
- 6. WARRANTIES, REPRESENTATIONS, AND STANDARD OF CONDUCT.** Contractor warrants and represents that:

  - 6.1** The Services provided shall be in an acceptable workmanlike and professional manner and in conformity with all applicable federal, state, county, and local municipal or regulatory statutes, ordinances, codes, directives, rules and regulations, and with the applicable standards of the industry;
  - 6.2** Contractor has the complete power and authority to enter into this Agreement and to perform its obligations hereunder; and
  - 6.3** Contractor has the requisite training, background and experience and technical knowledge and skills to perform the Services in a thorough and professional manner, consistent with applicable industry standards;

**7. ALTERNATIVE DISPUTE RESOLUTION.** In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of the Judicial Arbitrator Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, or if the parties agree otherwise, then under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request therefore. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the local District Court of Larimer County.

**8. INDEMNIFICATION.** Contractor will indemnify and hold harmless the District (and its officers, directors, employees, and agents-collectively, the "Indemnified Parties") from and against any and all claims, damages, losses, liabilities, expenses and costs (including, without limitation, reasonable attorneys' fees and court costs) for:

**8.1** Any action or suit brought by a third party against the Indemnified Parties arising out of or relating to the Services that Contractor provides; and

**8.2** Any action or suit that is based upon, or arises out of, any negligent act or omission or intentional misconduct of Contractor and that results in bodily injury, sickness, disease or death, or damage to or destruction of property, of any party.

**9. TERM AND TERMINATION.** This Agreement shall commence upon execution and shall terminate on December 31, 2024, unless sooner terminated for any non-discriminatory reason, or no reason at all by providing ten (10) days written notice, or immediately for cause. Neither party will be liable to the other for any compensation or reimbursement resulting from termination of this Agreement in accordance with its terms. The foregoing notwithstanding, the District shall have the right to recover damages in the event the District terminates this Agreement for cause. If notice of non-renewal is not provided at least thirty (30) days prior to the termination date, then this Agreement shall automatically renew for successive one (1) year terms until terminated pursuant to the terms of this paragraph.

**10. NO ASSIGNMENT.** The rights, duties and obligations of this Agreement are personal, and shall not be delegated or assigned by Contractor to any third party.

**11. TABOR.** All financial obligations of the District under this Agreement are contingent upon annual appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this Agreement shall be deemed to create a debt or multiple fiscal year financial obligation of the District, a pledge of the credit of the District, or a collection or payment guarantee by the District.

**12. NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the address set forth below or otherwise provided by either party in writing. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

Wellington Fire Protection District  
Attn: Chief Germain  
8130 Third Street



Wellington, CO 80549

Contractor:  
Fire Marshal Services LLC

**13. INSURANCE.** The Contractor shall provide and maintain during the performance of this Agreement the insurance described below, which insurance shall be placed with a company or companies authorized to do business in the State of Colorado. Prior to commencement of the services, the Contractor shall furnish and deliver to the District proof that the following insurances shall be in force and effect for the duration of the Project.

**13.1 General Liability:** General Liability Insurance on an occurrence basis with minimum limits of \$1,000,000.

**13.2 Automobile Liability:** Automobile liability insurance, covering the use, operation and maintenance of any automobiles, trucks, trailers or other vehicle owned, hired, or used but non-owned by the Contractor, providing bodily injury, including death, and property damage coverage. Minimum limits of liability provided by this coverage shall be a Combined Single Limit of \$500,000.

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**13.3 Workers' Compensation:** Workers compensation insurance, at statutory limits covering contractors as applicable.

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**14. NO THIRD-PARTY BENEFICIARIES.** None of the terms, conditions or covenants set forth in this Agreement shall give or allow any claim, benefit or right of action by any third person not a party to this Agreement. Any person other than the parties to this Agreement who or which receive services or benefits under this Agreement shall be only an incidental beneficiary.

**15. GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Colorado. Venue for any legal proceeding arising from or related to this Agreement shall be proper only in Larimer County, Colorado.

**16. GOVERNMENTAL IMMUNITY.** It is the intention of the parties that this Agreement shall not be construed as a contractual waiver of any immunities or defenses provided by the Colorado Governmental Immunity Act, Section 24-10-101 and following, Colorado Revised Statutes.

**17. ATTORNEYS' FEES.** For any dispute arising from or related to this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs whether or not legal proceedings are instituted.

**18. INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

DATED: \_\_\_\_\_, 2024 \_\_\_\_\_  
Contractor

DATED: \_\_\_\_\_, 2024 WELLINGTON FIRE PROTECTION DISTRICT  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing Agreement for Service was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2024 by \_\_\_\_\_.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

(Description of Services)

Meet the following standards/qualifications;

### **NFPA 1031**

#### **Standard for**

#### **Professional Qualifications for Fire Inspector and Plan Examiner**

### **NFPA 1037**

#### **Standard for**

#### **Professional Qualifications for Fire Marshal**

Task Assigned;

Assume the responsibilities as the Districts "Fire Marshal" to include the following; however, the following may not be all inclusive to the duties or responsibilities of the Fire Marshal:

Issue Permits to include; Special Hazard Permits, Marijuana Establishment or Business Operational Permits and Operational Permits

Attended "Technical Review Committee" meetings

Attend other meetings as required by the Fire Chief to accomplish the mission of the Fire Prevention Bureau

Conduct business, commercial and industrial annual inspections within 365 days of the previous year's annual inspection

Conduct all plan reviews

Maintain records of all inspections, permits, communication to constituents (customers)

**Keep** the Fire Chief informed through communication directly and/or his/her representative

Initiate the adoption of the most recent edition of the IFC within the Town of Berthoud, Larimer, Weld and Boulder County

# FIRE INSPECTION FEE SCHEDULE

## RESOLUTION-04

### EFFECTIVE AUGUST 21, 2024

#### **BUILDING CONSTRUCTION PLAN REVIEW AND PERMIT FEES**

All fees are based upon the square footage of the project, as reported by the contractor

<b>Site Square Footage</b>	<b>Building or Site Review Fee</b>
0-199,999	\$1000.00
200,000-1,000,000	\$1750.00

#### **FIRE PROTECTION SYSTEM PLAN REVIEW AND PERMIT FEES**

Permits for installation of any new, or modification to any existing, fire alarm or fire sprinkler system, including kitchen hood systems. These permits are in addition to any permits required by the municipality/County. Permits shall only be issued upon review of submitted plans. Each permit shall be assessed the appropriate fee amount based on the square footage of the project, as reported by the contractor.

<b>Site Sq. Footage</b>	<b>Fire Sprinkler System</b>	<b>Fire Alarm System</b>	<b>Kitchen Hood Syst.</b>
0-9,999	\$500.00	\$500.00	\$500.00
10,000-49,000	\$750.00	\$750.00	\$500.00
50,000-99,999	\$1,250.00	\$1,250.00	\$500.00
100,000-499,999	\$1,750.00	\$1,750.00	\$500.00
500,000-699,999	\$2,000.00	\$2,000.00	\$500.00
700,000-1,000,000+	\$2,500.00	\$2,500.00	\$500.00

**Re-Inspections**

Every permit issued includes one (1) inspection for each phase of the project. If additional inspections are required beyond the one (1) allowed, a re-inspection fee of **\$100.00 per hour** may be billed. Re-Inspection fees must be paid prior to the third inspection and any subsequent inspections.

**\*All fees are non-refundable**

#### **MISCELLANEOUS CONSTRUCTION FEE SCHEDULE**

# EXHIBIT C

## Fire Prevention Inspection Fee Schedule Resolution 2017-02 Effective August 2, 2017

CONSTRUCTION INSPECTION FEE SCHEDULE			
TYPE OF PERMIT	PERMIT	BUILDING DEPARTMENT VALUATION	DESCRIPTION
Tenant Finish or Improvement	<del>\$260.00</del>	<del>Up to \$50,000.00</del>	<del>This inspection fee is required to obtain a construction permit to modify, change or alter the interior of any building other than One- and Two-Family Dwellings and Group U buildings.</del>
	<del>0.006 X Valuation</del>	<del>Over \$50,000.00</del>	
New Building Core & Shell or Building Addition	<del>\$260.00</del>	<del>Up to \$50,000.00</del>	<del>This inspection fee is required to obtain a construction permit to construct or add to the total area of any building other than One- and Two-Family Dwellings and Group U buildings.</del>
	<del>0.006 X Valuation</del>	<del>Over \$50,000.00</del>	
Townhomes	<del>\$200.00 per unit</del>	<del>N/A</del>	<del>This inspection fee is required to obtain a construction permit to construct attached single-family dwellings (townhomes).</del>
Additional Reviewer Time	<del>\$75.00 per hour, minimum 1 hour</del>	<del>N/A</del>	<del>This inspection fee is necessitated by revisions or incomplete submittals.</del>

NEW DEVELOPMENT INSPECTION FEE SCHEDULE		
TYPE OF PERMIT	REVIEW FEE	DESCRIPTION
Submittal Fee	<del>\$0 per submittal</del> <del>\$75.00 per hour after 1<sup>st</sup> two hours per submittal</del>	<del>All submittals for New Subdivisions, PUD review, and other planning issues shall be subject to this fee. All submittals requiring more than two hours of plan review time shall be assessed additional fees per hour. Fees collected under this section may be deducted from construction permits.</del>

FIRE PROTECTION EQUIPMENT AND SYSTEMS INSPECTION FEE SCHEDULE		
TYPE OF PERMIT	PERMIT FEE	DESCRIPTION
Fire Protection Underground Fire Line	<del>\$260.00</del>	<del>This inspection fee is required to obtain a construction permit to extend, modify or alter an underground fire service main (underground fire lines).</del>
Automatic Protection System	<del>\$260.00 + \$2.00 per head</del>	<del>This inspection fee is required to obtain a construction permit to install a new automatic sprinkler system in multi-family residential, hotel, business or commercial facilities.</del>

## HAZARDOUS MATERIALS CONSTRUCTION INSPECTION FEE SCHEDULE

TYPE OF PERMIT	PERMIT FEE	DESCRIPTION
Hazardous Materials	<b>\$500.00</b>	<del>This inspection fee is required to obtain a construction permit to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a storage facility or other area regulated by the fire code when the hazardous materials in use or storage exceed the amounts listed. (See exceptions in Code).</del>
AST or UST Removal	<del>\$500.00 for 1<sup>st</sup> tank + \$150.00 for each additional tank at the same site.</del>	<del>This inspection fee is required to obtain a construction permit to install, remove, abandon, or place temporarily out of service, or otherwise dispose of a flammable or combustible liquids tank.</del>
AST or UST Permanent Installation (Vehicle Fueling)	<del>\$500.00 for 1<sup>st</sup> tank + \$100.00 for each additional tank at the same site.</del>	<del>This inspection fee is required to obtain a construction permit to install, construct or alter tanks or equipment used for the storage of flammable or combustible liquids that are part of a Motor Vehicle Fuel Dispensing Facility (inclusive of fuel dispensers) (see "Fuel Dispensers" below when only the installation of dispensers is taking place).</del>
Fuel Dispensers	<del>\$500.00 for 1<sup>st</sup> dispenser + \$50.00 per each additional dispenser</del>	<del>This inspection fee is required to obtain a construction permit to install or modify fuel dispensers (See exceptions in Code).</del>
AST or UST Permanent Installation (Other)	<del>\$500.00 for 1<sup>st</sup> tank + \$100.00 for each additional tank.</del>	<del>This inspection fee is required to obtain a construction permit to install, construct or alter tanks or equipment used for the storage of flammable or combustible liquids that are NOT part of a Motor Vehicle Fuel Dispensing Facility (e.g. generator fuel tanks).</del>
Battery Systems (UPS)	<del>\$500.00</del>	<del>This inspection fee is required to obtain a construction permit to install a stationary lead-acid battery system having a liquid capacity of more than 100 gallons (includes gel cells).</del>
Compressed Gas Systems	<del>\$500.00</del>	<del>This inspection fee is required to obtain a construction permit to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a compressed gas system.</del>
LP-Gas Bulk Facility	<del>\$500.00</del>	<del>This inspection fee is required to obtain a construction permit to install bulk LP-gas systems.</del>
Medical Gas Systems	<del>\$500.00 + \$20.00 per outlet</del>	<del>This inspection fee is required to obtain a construction permit to install a nitrous oxide and/or oxygen medical gas system.</del>
Spray Booths, Spray Rooms, or Mixing Rooms	<del>\$500.00 for each booth or room</del>	<del>This inspection fee is required to obtain a construction permit to install booths or equipment, or construct rooms used for the mixing, spraying, dipping or drying of flammable or combustible liquids.</del>

**SPECIAL PERMITS, TENTS, CANOPIES, AND TEMPORARY MEMBRANE STRUCTURES**

TYPE OF PERMIT	PERMIT FEE	DESCRIPTION
Tent Permit*	<del>\$50.00 for a single event \$100.00 for two or three events \$200.00 for more than three events</del>	<del>This inspection fee is required to obtain a construction permit to construct a temporary structure with an area of 200 square feet or greater with more than 75% of the sides enclosed at a single location.</del>
Tent/ Canopy Permit*	<del>\$50.00 for a single event \$100.00 for two or three events \$200.00 for more than three events</del>	<del>This inspection fee is required to obtain a construction permit to construct a temporary structure with an area of 400 square feet or greater with less than 75% of the sides enclosed at a single location.</del>
Special Events*	<del>\$100.00 for a single occurrence \$200.00 for two or three occurrences \$400.00 for more than three occurrences</del>	<del>This inspection fee is required to obtain a construction permit to construct multiple tents or canopies for a special event, farmers market, art fair, etc. Occurrence shall mean the number of set-ups that occur during a calendar year.</del>
Temporary Membrane Structure	<del>\$200.00 per structure</del>	<del>This inspection fee is required to obtain a construction permit to construct any temporary membrane structure. (regardless of size)</del>
Fireworks	<del>\$200.00 for outdoor display \$200.00 for indoor display (proximate) \$200.00 for fireworks stand or sale</del>	<del>This inspection fee is required to obtain a permit for the use or sale of explosive materials.</del>

\* Valid for 180 days during a one-year time frame from time of permit issuance.

**MISCELLANEOUS CONSTRUCTION INSPECTION FEE SCHEDULE**

TYPE OF PERMIT	PERMIT	DESCRIPTION
Temporary Access Road Agreement	<del>30 Days - \$250.00 60 Days - \$500.00 90 Days - \$1000.00</del>	<del>This inspection fee is required to obtain a construction permit to install a temporary access road in compliance with District standards for a specific time period.</del>
Re-Inspection Fee (permits)	<del>\$200 for first offense, double the previous fee for every re-inspection issued thereafter. (per permit)</del>	<del>This inspection fee shall be assessed for each permit re-inspection when: an inspection is called and is not complete when the inspector arrives; when corrections called out on a previous inspection are not made; or when a contractor does not have the permit card and/or the plans are not available to the inspector.</del>
Existing Commercial Building Code Inspection Fee	<del>\$100.00 per inspection after the third inspection visit.</del>	<del>This inspection fee shall be assessed to the responsible party for each re-inspection after the third inspection for code compliance in a calendar year. This fee is only charged for existing occupancies that undergo code inspections.</del>
After Hours Inspection	<del>\$100.00 per hour (minimum two hours)</del>	<del>This inspection fee shall be assessed when the Fire District conducts an inspection after or before the normal business hours of 8:00 am and 5:00 pm Monday through Friday.</del>

MISCELLANEOUS CONSTRUCTION INSPECTION FEE SCHEDULE (CONTINUED)		
TYPE OF PERMIT	PERMIT FEE	DESCRIPTION
<del>Removal of Stop Work Order (other than work without a permit)</del>	<del>\$500.00 for first offense, double the previous fee for every stop work order issued thereafter.</del>	<del>This inspection fee shall be paid to the District in order to remove a "Stop Work Order" issued by the District. In addition to this fee, a re-inspection fee shall be paid and if after normal working hours the cost of the "After Hours" inspection will be assessed and shall be paid prior to the lifting of the "Stop Work Order"</del>
Work Without a Permit or Approval	Double Permit Fee	This inspection fee shall be assessed whenever any work for which a permit is required by the Fire District has been commenced without first obtaining the permit.
Technical Assistance Fee	Actual Cost to Reimburse Wellington Fire Protection District	To determine the acceptability of technologies, processes, products, facilities, materials, and uses attending the design, operation or use of a building or premises subject to the inspection of the District.
<del>Alternative Materials &amp; Methods</del>	<del>\$260.00 per request + \$75.00 per hour review time</del>	<del>This inspection fee is to be assessed to evaluate and process each proposed alternate materials or methods.</del>
<del>Variance Request</del>	<del>\$260.00 per request</del>	<del>This inspection fee is assessed to evaluate and process each Variance Request.</del>
<del>Additional Plan Reviews</del>	<del>\$75.00 per hour</del>	<del>This inspection fee shall be paid for the review of plans when changes are made to the plans that have been previously approved.</del>
<del>Misc. Inspection Fee</del>	<del>\$75.00 per hour</del>	<del>This inspection fee is to be assessed when there is no other applicable fee indicated and which occurs during normal business hours.</del>
Other Permits Required by the International Fire Code	\$260.00	This fee is assessed for all permits and certificates, as required by the adopted International Fire Code other than Open Burning Permits issued by the Fire District or County.
<del>Re-issue Permit Card or Plan Review Document</del>	<del>\$25.00</del>	<del>This inspection fee is to be assessed to re-issue a permit card or plan review document.</del>



**NOTES:**

1. This fee schedule is approved by the Board of Directors per CRS 32-1-1002(1)(e)(II).
2. NSF checks shall be charged a fee of \$35.00 per occurrence.

## EXHIBIT D

### Excessive False Alarm Inspection Fee Schedule Resolution 2017-02 Effective August 2, 2017

This section establishes fees for excessive and unnecessary false fire alarms. These types of alarms unnecessarily endanger firefighters and citizens during a response.

**Section 1 – Definitions:** The following definitions shall apply to this resolution:

A) **Category I Alarms:** Any alarm requiring a fire department response where the system operated properly under the following conditions:

- 1) **Accidental:** Any alarms caused by the following:
  - a) A guest or circumstances beyond the control of management.
  - b) An accidental smoke or fire condition.

**\*Category I alarms shall not be assessed a fee.\***

B) **Category II Alarms:** Any alarm requiring a fire department response under the following conditions:

- 1) **System Malfunction:** Any alarm caused by poor or improper maintenance, improper installation of alarm equipment, hardware or wiring. An improper action by the alarm monitoring center shall also be considered a system malfunction.
- 2) **User Error:** The act or omission of an agent, employee or contractor of management.
- 3) **Undetermined Cause:** Any alarm which after investigation by the fire department does not reveal the apparent cause of the alarm. If the alarm system owner, or their agent, can provide proof of cause within two (2) working days from the alarm time, the fire department may re-evaluate the assessment.

**\*Category II alarms shall be termed “unnecessary” and will be assessed a fee as outlined in Table 1.\***

C) **Malicious Alarms:** Any alarm caused by a malicious or mischievous action.

- 1) These alarms are unlawful. The individual responsible for a malicious alarm(s) may be subject to criminal action as defined in the Colorado Revised Statutes and be responsible for the cost of the response to the alarm.

**Section 2 - Excessive Alarm Rate Based on Type of Violations:**

- 2.1 **Existing Occupancies:** Any fire alarm system found to have three or more Category II alarms, as defined in this resolution, in a calendar year shall be considered in violation of this resolution. An excessive alarm fee shall be charged to the owner of that fire alarm system.
- 2.2 **Fire Alarm Monitoring or Fire Protection Maintenance Companies:** Any fire alarm monitoring or fire protection maintenance companies found to have three or more *Category II* alarms at any combination of properties, as defined in this resolution, in a calendar year shall be considered in violation of this resolution. An excessive alarm fee shall be charged to the fire alarm installation/testing company, fire alarm monitoring company, or fire protection maintenance company depending upon which is found to be the cause of the false alarm. If designation of cause cannot be distinguished between the companies, then the owner of the property found to be in violation shall be charged the appropriate fees.
- 2.3 **New Construction:** Any new construction site found to have three or more Category II alarms, as defined in this resolution, shall be considered in violation of this resolution. An excessive alarm fee shall be charged to the owner of said property.

**The excessive fees shall be assessed as follows:**

The third Category II alarm in violation of Section 2.1, 2.2 or 2.3 in any calendar year will be assessed a fee of \$200.00. The fee will progressively increase by an additional \$100.00 for each violation with no fee limit. See Table 1 for details.

**Table 1 –Excessive Alarm Fees**

<b>In Violation of Section 2.1, 2.2 and 2.3</b>	
<b>Number of Alarms</b>	<b>Fee For Each Alarm</b>
1	\$ 0.00
2	\$ 0.00
3	\$200.00
4	\$300.00
5	\$400.00
6	\$500.00
7	\$600.00

Note: This table continues indefinitely with an accumulating increase of \$100.00 per incident.

**Section 3 - Rebate Eligibility:** Within thirty days following any alarm in violation of Section 1.1 of this resolution the owner may provide the District with a written document which shows that necessary repairs or corrections have been made to the fire alarm system by a qualified agency. Upon determination by the District that all necessary repairs to the fire alarm system have been made, the owner is eligible to receive a fifty percent rebate on the excessive alarm fee, if requested within 30 days of the determination by the District.

**\*Rebate eligibility does not apply to Sections 2.2 and 2.3.\***

**Section 4 - Failure to Pay Fees:** Failure of any fees to be paid by contracted companies or general contractors shall be charged to the owner of the system in violation of this resolution. Owners of alarm systems more than ninety days in arrears for all excessive emergency alarm inspection fees, due under this resolution, shall have a perpetual lien placed against the property pursuant to Colorado Revised Statutes, §32-1-1001(j). The owner shall be responsible to reimburse the Wellington Fire Protection District for all reasonable legal fees incurred in collecting such fees.

## **EXHIBIT E**

### **EMS Fee Schedule Resolution 2017-02 Effective August 2, 2017**

- Community Training Programs
  - CPR Only \$45.00 per student
  - CPR and First Aid \$65.00 per student

PROPOSAL FOR PURCHASE OF 2024 FORD EXPLORER COMMAND VEHICLE

8/21/2024

Directors,

Please find attached quotes for the purchase and outfitting of a 2024 Ford Explorer Incident Command/Fire Chief Vehicle. The proposed unit would be outfitted with an incident command module in the rear, communication equipment, emergency lighting and marking, and PPE storage.

The outfitting of a combination command vehicle/chief's vehicle would be in line with industry norms and standards. It provides the ability of the chief to have a clean, reasonable vehicle for travel to meetings, conferences, District business and incident response while also serving as a mobile command post for incidents that require one.

I am currently utilizing BC03 for these functions. It is my belief that BC03 should be an asset that is available to the on-duty force considering its equipment inventory and capabilities. It is more equipped with firefighting and EMS gear than I need as the chief. Additionally, it's not cost effective for me to be utilizing it as I need to in regards to fuel consumption and wear and tear.

To help defray some of the cost of a new vehicle, we will be liquidating a 2011 Ford Expedition that has far exceeded its useful life and contributions to the District.

The vehicle would be purchased through the State of Colorado Price Agreement program which ensures the lowest cost possible, approximately \$8000-\$10,000 less than retail.

This vehicle would effectively serve the District in this capacity for at least 8-10 years.

Respectfully submitted,

Chief Todd Germain

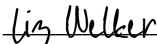

# STATE OF COLORADO PRICE AGREEMENT

## SIGNATURE AND COVER PAGE

<b>State Agency</b> Department of Personnel and Administration, State Purchasing and Contracts Office	<b>Contract Number</b> 185152
<b>Contractor</b> Phil Long Ford of Denver LLC	<b>Contract Performance Beginning Date</b> Later of July 7, 2023 or the Effective Date
<b>Contract Description</b> 2024 or Newer Vehicles	<b>Initial Contract Expiration Date</b> September 30, 2024

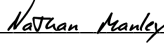
### THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

<b>CONTRACTOR</b> Phil Long Ford of Denver LLC	<b>STATE OF COLORADO</b> Jared Polis, Governor Department of Personnel and Administration, State Purchasing and Contracts Office Tony Gherardini, Executive Director
DocuSigned by:  By <u>Liz Welker</u> , Commercial Accounts Manager Date: <u>7/6/2023</u>	DocuSigned by:  By <u>John Chapman</u> , State Purchasing Manager Date: <u>7/6/2023</u>

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

**STATE CONTROLLER**  
**Robert Jaros, CPA, MBA, JD**

DocuSigned by:  
 By  Nathan Manley  
 66856696CC1A43A...

Effective Date 7/6/2023

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### 1. PARTIES

This Contract is entered into by and between Contractor named on the Signature and Cover Page for this Contract (the “Contractor”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Contract (the “State”). Contractor and the State agree to the terms and conditions in this Contract.

### 2. TERM AND EFFECTIVE DATE

#### A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

#### B. Initial Term

The Parties’ respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Signature and Cover Page for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Signature and Cover



Page for this Contract (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State’s Option

- i. The Parties may extend the Term of this Contract by written amendment executed by the Parties and approved by the State Controller prior to the termination of the Contract on September 30, 2024.
- ii. Continuation of this Contract beyond the initial term is not a right of the Contractor. The State may enter into an amendment to extend the Term when such extension is clearly in the best interest of the State.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in **§17**, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of this Contract.

E. Order Term

Orders may only be placed prior to the expiration or earlier termination of this Contract, but may have a delivery date or performance period that extends no longer than 300 calendar days following that expiration or earlier termination date. Regardless of whether this Contract has expired or has been terminated, the Contractor shall comply with all Orders that extend past the expiration or termination, as described in this section, and all requirements of this Contract necessary to complete all outstanding Orders shall survive the expiration or termination of this Contract until all such Orders are complete.

F. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. This subsection shall not apply to a termination of this Contract by the State for breach by Contractor, which shall be governed by **§15.A.i**.

i. Method and Content

The State shall notify Contractor of such termination in accordance with **§17**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in **§15.A.i.a**.

iii. Payments

If the State terminates this Contract in the public interest, the Purchasing Entities shall pay Contractor according to their orders with the Contractor. The sum of any and all

payments shall not exceed the maximum amount payable to Contractor under each order.

### 3. AUTHORITY

Authority to enter into this Contract exists in §24-102-202, C.R.S. and 1 CCR 101-9 R-24-102-202-01.

### 4. PURPOSE

The Parties are entering into this Contract for the Contractor to provide 2024 or Newer Vehicles to Purchasing Entities. The Contractor was selected as a result of ITN-SPCO-AR-23-05.

### 5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- B. **“Business Interruption”** means any event that disrupts Contractor’s ability to complete the Work for a period of time, and may include, but is not limited to a Disaster, power outage, strike, loss of necessary personnel or computer virus.
- C. **“Ceiling Price”** means the maximum price Contractor or a Subcontractor may charge for a Good or Service under this Contract.
- D. **“Chief Procurement Officer”** means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.
- E. **“CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- F. **“Contract”** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- G. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by a Purchasing Entity for Orders placed under this Contract.
- H. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- I. **“Disaster”** means an event that makes it impossible for Contractor to perform the Work out of its regular facility or facilities, and may include, but is not limited to, natural disasters, fire or terrorist attacks.

- J. **“End of Term Extension”** means the time period defined in **§2.D**.
- K. **“Environmentally Preferable Products”** means products that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose, as defined in §24-103-904, C.R.S.
- L. **“Effective Date”** means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Contract.
- M. **“Exhibits”** means the following exhibits attached to this Contract:
- i. **Exhibit A**, General Requirements.
  - ii. **Exhibit B**, Statement of Work.
  - iii. **Exhibit C**, Vehicle and Price List
  - iv. **Exhibit D**, HIPAA Business Associate Agreement
- N. **“Extension Term”** means the time period defined in **§2.C**
- O. **“Goods”** means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- P. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- Q. **“Initial Term”** means the time period defined in **§2.B**
- R. **“Order”** means any delivery order, purchase order, contract, agreement or other binding document used by a Purchasing Entity to order the Goods and Services described in this Contract from the Contractor, and shall include any modification to such a document.
- S. **“Party”** means the State or Contractor, and **“Parties”** means both the State and Contractor.
- T. **“Purchasing Entity”** means any entity or organization that has been authorized by the State to place Orders with the Contractor, and may include, without limitation, agencies of the State, institution of higher education within the State, political subdivisions of the State, authorized non-profit organizations and other authorized entities.
- U. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- V. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment

information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501, C.R.S.

- W. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- X. **“Services”** means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.
- Y. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PCI, PHI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA.
- Z. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S..
- AA. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- BB. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- CC. **“Subcontractor”** means third-parties, if any, engaged by Contractor to aid in performance of the Work. The term “Subcontractor” includes, without limitation, any dealers, distributors, partners or resellers engaged by the Contractor to perform the Work.
- DD. **“Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.
- EE. **“Work”** means the Goods delivered and Services performed pursuant to this Contract.
- FF. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

## 6. STATEMENT OF WORK

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of Exhibits A and B and any Order.

## 7. PAYMENTS TO CONTRACTOR

### A. Payments Under Orders

- i. Each Purchasing Entity will make its own payments under any Order that it enters into. The State shall not be liable to Contractor for any payments due under any Order unless the State is a party to that Order.
- ii. Contractor shall allow the State and Purchasing Entities to use a procurement card or other credit card to make payments under any Order, in addition to any other payment procedure available to the State or Purchasing Entity.

Effective July 1, 2022, per C.R.S. § 5-2-212, merchants are now allowed to add a surcharge to credit card transactions. The surcharge can be a maximum of 2% the transaction amount and does not apply to debit cards. **To cover the cost of processing a credit or charge card transaction, and pursuant to section §5-2-212, Colorado Revised Statutes, a seller or lessor may impose a processing surcharge in an amount not to exceed 2% of the total payment made for goods or services purchased or leased by use of a credit or charge card.**

- iii. The State shall not pay any amount to Contractor under this Contract unless the state issues an Order, at which time it shall pay Contractor in accordance with that Order. The State shall not be responsible for payment under any Order that is issued by a Purchasing Entity that is not the State, and the Contractor shall seek no payment or other compensation from the State for any Work performed under any Order issued by and Purchasing Entity that is not the State.

### B. Payment Procedures

#### i. Invoices

Contractor shall invoice each Purchasing Entity in accordance with that Purchasing Entity's Order. Contractor shall not invoice the State under any Order unless the State is a party to that Order. Contractor shall allow State and Purchasing Entities a minimum of thirty (30) days after receipt of an invoice to pay for products or Services provided by Contractor. State law and regulations provide that State payments made within forty-five (45) days are not considered delinquent, and unless otherwise agreed, State and Purchasing Entities will pay interest on any unpaid balance beginning on the 46th day at the rate of one (1) percent per month on any unpaid balance until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are the subject of a good faith dispute regarding the obligation to pay all or a portion of the liability. Contractor shall invoice State and Purchasing Entities separately for accrued interest on delinquent amounts due. §24-30-202(24) C.R.S.

#### ii. Payment Disputes

Unless different procedures are specified in an Order, if Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the Purchasing Entity issuing the Order in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the

determination or calculation of the payment by that Purchasing Entity. The Purchasing Entity will review the information presented by Contractor and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the Purchasing Entity's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the Purchasing Entity has concluded its review, and the Purchasing Entity shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iii. Discount and Delinquency Period

Any applicable cash discount period or delinquency period for the amounts shown on an invoice shall begin on the date of the Purchasing Entity's approval of that invoice, or from the date of receipt of acceptable Goods or Services at the specified destination by an authorized Purchasing Entity representative, whichever is later.

**8. RESERVED**

**9. REPORTING - NOTIFICATION**

A. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor's ability to perform its obligations under this Contract, Contractor shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §17.

B. Performance Outside the State of Colorado or the United States, §24-102-206, C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §17, within 20 days following the earlier to occur of Contractor's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this §9.B shall constitute a breach of this Contract. This §9.B shall not apply if the Contract Funds include any federal funds.

**10. CONTRACTOR RECORDS**

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: (i) the date 3 years after the date this Contract expires or is terminated, (ii) final payment under this Contract is made, (iii) the resolution of any pending Contract matters, or (iv) if an audit is occurring, or Contractor has received notice that an audit is pending, the

date such audit is completed and its findings have been resolved (the “Record Retention Period”).

**B. Inspection**

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

**C. Monitoring**

The State, in its discretion, may monitor Contractor’s performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor’s performance in a manner that does not unduly interfere with Contractor’s performance of the Work.

**D. Final Audit Report**

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

**11. CONFIDENTIAL INFORMATION-STATE RECORDS**

**A. Confidentiality**

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in Writing by the State. Contractor shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines including, without limitation: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Addendum attached to this Contract. Contractor shall immediately forward any request or demand for State Records to the State’s principal representative.

**B. Other Entity Access and Nondisclosure Agreements**

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

Contractor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that none of Contractor or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the State. If Contractor cannot produce its analysis and plan within the allotted time, the State, in its discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the State for the actual costs thereof. The State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

E. Data Protection and Handling

Contractor shall ensure that all State Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

F. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Contractor shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to,



Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as Exhibit \_\_ on an annual basis Contractor's duty and obligation to certify as set forth in Exhibit \_\_ shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

## **12. CONFLICTS OF INTEREST**

### **A. Actual Conflicts of Interest**

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

### **B. Apparent Conflicts of Interest**

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

### **C. Disclosure to the State**

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

## **13. INSURANCE**

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract and until all orders for Goods or Services or both are delivered and accepted. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State.

### **A. Workers' Compensation**

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

### **B. General Liability**

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability,

personal injury, and advertising liability with minimum limits as follows:

- i. 1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

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

D. Garage Keepers Liability

The Garage Keepers Liability Insurance must have a minimum of \$1,000,000 per occurrence.

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

E. Protected Information

Liability insurance covering all civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and all loss income or extra expense as a result of actual or alleged breach, violation or infringement of a right to privacy, consumer data protection law, confidentiality or other legal protection for personal information as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

F. Professional Liability Insurance

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

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Crime Insurance

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

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

H. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

I. Primacy of Coverage

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

J. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §17 within 7 days of Contractor's receipt of such notice.

K. Subrogation Waiver

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

L. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintain at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

M. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within 7 Business Days following the Effective Date. Contractor

shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within 7 Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within 7 Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

#### 14. BREACH

##### A. Defined

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

##### B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §15 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in this Contract in order to protect the public interest of the State; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

#### 15. REMEDIES

##### A. State's Remedies

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §14.B., shall have all of the remedies listed in this §15.A. in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

##### i. Termination for Breach

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

##### a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice,

and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to Purchasing Entities all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State or any Purchasing Entity, Contractor shall assign to the Purchasing Entity all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the Purchasing Entity has an interest. At the State or Purchasing Entity's request, Contractor shall return materials owned by the Purchasing Entity that Contractor possesses at the time of any termination. Contractor shall deliver all completed Work Product to the Purchasing Entity at the State or Purchasing Entity's request.

b. Payments

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

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State or appropriate Purchasing Entity for any damages sustained by the State or Purchasing Entity in connection with any breach by Contractor, and the Purchasing Entity may withhold payment to Contractor for the purpose of mitigating the Purchasing Entity's damages. A Purchasing Entity may withhold any amount that may be due Contractor as the Purchasing Entity deems necessary to protect itself against loss including, without limitation, loss as a result of outstanding liens and costs incurred by the Purchasing Entity in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

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

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor shall promptly cease performing Work and incurring costs in accordance with the State's directive, and neither the State nor any Purchasing

Entity shall not be liable for costs incurred by Contractor after the suspension of performance.

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, at the option of and as approved by the State or Purchasing Entity (i) secure that right to use such Work for the State, Purchasing Entity and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the Purchasing Entity.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §14.B and the dispute resolution process in §16 shall have all remedies available at law and equity. If a Purchasing Entity is in breach of a provision of an Order, Contractor shall have all remedies available to it under that Order and available at law and equity.

C. Purchasing Entity's Remedies

- i. If Contractor is in breach under any provision of an Order by a Purchasing Entity, the Purchasing Entity shall have all of the remedies listed in that Order, in addition to all other remedies available by law or equity. The Purchasing Entity may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.
- ii. If a Purchasing Entity gives Contractor notice of breach or terminates an Order because of Contractor's breach of that Order, Contractor shall provide notice to the State of that

breach or termination within five (5) Business Days following Contractor's receipt of that notice of breach or termination.

## 16. DISPUTE RESOLUTION

### A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives or through a dispute on an Order, as described in Exhibit A, §3.F, shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

### B. Resolution of Controversies arising under this Contract

If the initial resolution described in §16.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of the State Purchasing and Contracts Office as described in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §§ 24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

## 17. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §17 without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

#### For the State:

Amy Risley  
State Purchasing & Contracts Office  
1525 Sherman St  
5<sup>th</sup> floor  
Denver, CO 80203  
[Amy.Risley@state.co.us](mailto:Amy.Risley@state.co.us)

#### For Contractor:

Liz Welker  
Commercial Accounts Manager  
7977 W. Tufts Ave  
Littleton, CO 80123  
[ewelker@phillong.com](mailto:ewelker@phillong.com)

## 18. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

### A. Work Product

Contractor assigns to the Purchasing Entity and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or

future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product under an Order. Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire.

**B. Exclusive Property of the State**

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

**19. GOVERNMENTAL IMMUNITY**

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

**20. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §20 shall apply. Contractor agrees to be governed by and comply with the provisions of §§24-102-206, 24-106-103, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract information in the State’s contract management system (“Contract Management System” or “CMS”). Contractor’s performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

**21. GENERAL PROVISIONS**

**A. Assignment**

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

**B. Subcontracts**

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state



laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in **§21.A.**, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Modification

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

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

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

#### J. Order of Precedence

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

- i. Colorado Special Provisions in **§22** of the main body of this Contract.
- ii. The provisions of the other sections of the main body of this Contract.
- iii. Exhibit A, General Requirements
- iv. Exhibit D, HIPAA Business Associate Agreement
- v. Exhibit B, Statement of Work.
- vi. Exhibit C, Vehicle and Price List

Notwithstanding anything to the contrary herein, the State and Purchasing Entities shall not be subject to any provision incorporated in any exhibit attached hereto, any provision incorporated in any terms and conditions appearing on Contractor's or Subcontractor's website, any provision incorporated into any click-through or online agreements. Neither shall the State be subject to, any provision incorporated into any other document or agreement between the Parties that **(i)** requires the State to indemnify or hold harmless Contractor or any other party, **(ii)** is in violation of State laws, regulations, rules, fiscal rules, policies, or other State requirements as deemed solely by the State, or **(iii)** is contrary to any of the provisions incorporated into **§22** or the main body of this Contract.

#### K. Severability

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

#### L. Survival of Certain Contract Terms

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

#### M. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Contract. Contractor shall honor any tax exemption that any Purchasing Entity has, and shall not charge any Purchasing Entity any excise, sales, or use taxes from which that Purchasing Entity is exempt.

#### N. Third Party Beneficiaries

Except for a Purchasing Entity and/or the Parties' respective successors and assigns described in **§21.A**, this Contract does not and is not intended to confer any rights or remedies upon

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

O. Waiver

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

P. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

Q. Standard and Manner of Performance

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

R. Licenses, Permits, and Other Authorizations.

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

S. Indemnification

i. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §11 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §11.

iii. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including

attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Deliverable, Good or Service, software, or Work Product provided by Contractor under this Contract (collectively, "IP Deliverables"), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Contractor's obligations hereunder shall not extend to the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is (a) provided by Contractor or Contractor's subsidiaries or affiliates; (b) specified by Contractor to work with the IP Deliverables; (c) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (d) is reasonably expected to be used in combination with the IP Deliverables.

iv. **Accessibility Indemnification**

Contractor shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

T. **Accessibility**

- i. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by the Governor's Office Of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. The State may require Contractor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Contractor's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

**22. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

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

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

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

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

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

**C. GOVERNMENTAL IMMUNITY.**

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

**D. INDEPENDENT CONTRACTOR**

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

**E. COMPLIANCE WITH LAW.**

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

**F. CHOICE OF LAW, JURISDICTION, AND VENUE.**

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

**G. PROHIBITED TERMS.**

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S.

**H. SOFTWARE PIRACY PROHIBITION.**

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or

applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

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

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

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

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

## EXHIBIT A, GENERAL WORK REQUIREMENTS

### 1. CONTRACTOR PERSONNEL

- A. Contractor personnel shall work cooperatively with State and Purchasing Entity staff to ensure the completion of the Work.

#### COLORADO REVISED STATUTES, 24-109-105

#### (2) A PERSON MAY BE DEBARRED FOR ANY OF THE FOLLOWING REASONS:

(d) Willful material failure to perform in accordance with the terms of one or more contracts, following notice of such failure, or a history of material failure to perform, or of materially unsatisfactory performance of, one or more contracts.

#### B. Key Personnel

Contractor shall designate people to hold the following specific personnel positions:

- i. **Primary Point of Contract** - The Primary Point of Contract shall be responsible for all of the following:
- a. Serving as the individual responsible for addressing all questions and concerns for the State and Purchasing Entities, unless an Order specifies another point of contact for that Order.
  - b. Ensuring the completion of all Work in accordance with the Contract's requirements. This includes, but is not limited to, ensuring the accuracy, timeliness and completeness of all Work.
  - c. Overseeing all other personnel and ensuring proper staffing levels throughout the term of the Contract.
- ii. **Quarterly Volume Reporting Lead** - The Quarterly Volume Reporting Lead shall be responsible for all of the following:
- a. Ensuring the completeness and accuracy of the Quarterly Volume Reports described in this Exhibit A.
  - b. Ensuring the final submission of the Quarterly Volume Reports described in this Exhibit A by the appropriate due date for that report.
  - c. Reports must be submitted via e-mail to Amy Risley at: [Amy.Risley@state.co.us](mailto:Amy.Risley@state.co.us)

### 2. ORDERING AND ORDER FULFILLMENT

#### A. Ordering

Contractor shall provide a complete and accurate Internal Revenue Service form W9 to the State prior to accepting an Order from any Purchasing Entity. Upon a request by a Purchasing Entity, Contractor shall provide a complete and accurate Internal Revenue Service form W9 to that Purchasing Entity.

- i. The State and Each Purchasing Entity may complete an Order in accordance with its own rules and policies, as available to Contractor, using the appropriate documentation for that organization to issue an Order.
  - a. Contractor shall communicate directly with each Purchasing Entity related to that Purchasing Entity's Orders.
- ii. Contractor shall ensure that all Orders it accepts have the proper information contained in them for Contractor to be able to comply with all reporting requirements of this Contract.
- iii. If Contractor provides for Ordering through an internet-based portal or electronic catalog, Contractor shall maintain all of Contractor's necessary hardware, software, backup-capacity and network connections required to operate that internet-based portal or electronic catalog.
  - a. Contractor's internet-based portal and electronic catalogs shall clearly designate that they are part of this Contract and shall have a link to the State's price agreement web location, as determined by the State. Contractor shall ensure that all Environmentally Preferable Products are clearly listed on internet-based portal and electronic catalogs.
  - b. If Contractor provides an internet-based portal or electronic catalog, Contractor shall also provide paper catalogs or catalogs on other digital media to each Purchasing Entity upon request by that Purchasing Entity.
  - c. If Contractor's catalog will be either hosted on or accessed through the State's eCommerce system, then Contractor shall comply with all policies, procedures and directions from the State in relation to hosting its catalog on or making its catalog accessible through that system. Contractor shall ensure that all information made available through the State's eCommerce system is accurate and complies with this Contract..

#### B. Marketing

- i. If Contractor desires to distribute any materials, notices or literature with the intent to market the Goods or Services ("Marketing Materials"), Contractor shall deliver all such Marketing Materials to the State for review and approval prior to distributing any such materials to a Purchasing Entity.
  - a. The State will review submitted Marketing Materials and may approve, deny or request changes to any Marketing Materials in its sole discretion. If the State requests changes, Contractor may make those changes or may choose to rescind its submission for review and approval.
  - b. Contractor shall not distribute any marketing materials to any Purchasing Entity prior to receiving the State's approval of those Marketing Materials.
- ii. The State shall not be responsible for maintaining any mailing lists or creating, printing, mailing or distributing any of Contractor's Marketing Materials, though the State may distribute Marketing Materials in its sole discretion.

#### C. Additional Terms

- i. Any additional terms and conditions on any invoice, statement, Contractor time sheet, website, electronic license or use agreement or any other form, including, without limitation, terms regarding indemnification, limitation of liability, cancellation fees, choice of law and binding arbitration shall be void and unenforceable except to the extent that they are specifically included in this Contract or an Order. The signature of any employee of a



Purchasing Entity on any such form shall be effective to establish receipt of Goods or completion of Services and shall not make any term of that form enforceable.

### 3. DATES AND CONFIRMATIONS REQUIRED

A. **For each vehicle ordered**, vendors shall complete and return the “Contractor’s Confirmation of 2024 Vehicle Production for SFM” form **Exhibit 3** (from Bid Specifications) to SFM or “Contractor’s Confirmation of 2024 Vehicle Production for Aurora” **Exhibit 5** (from Bid Specifications, or other entity **Exhibit 5a** (from Bid Specifications) to the Purchasing Entity as soon as it is available, but no later than five (5) working days after notification from the manufacturer. This form shall include the following information:

- i. Date Contractor received SFM or Purchasing Entity Purchase Order (PO)
- ii. Manufacturer’s Factory Order # and date received
- iii. Manufacturer’s Factory Production Date
- iv. Estimated date of delivery to SFM or Purchasing Entity

**FOR STATE OF COLORADO AWARDS: AWARDED DEALER MUST SUBMIT STATUS CODE REPORT (NOTIFICATIONS) VIA EMAIL TO SFM AND PUBLIC SAFETY WITH UPDATES ON AND INCLUDING; BUILD PROGRESS, UPFIT PROGRESS; DELIVERY AND ETA’S; DELAYS , ETC. REPORTS MUST BE EMAILED EVERY MONTH STARTING AFTER CONFIRMATION OF PURCHASE ORDER. EMAILS MUST BE SENT TO:**

[Terry.Sisneros@state.co.us](mailto:Terry.Sisneros@state.co.us)

#### B. OEM Confirmation

**The Contractor shall notify SFM or the Purchasing Entity no later than 10 business days after the receipt of the Purchase Order if they have not received the OEM confirmation.** The Contractor shall inform SFM immediately by phone and in writing via email, USPS, or fax, when the contractor is aware or suspects that there is a problem with an order or a production date from the factory. The dealer shall demonstrate to the State of Colorado all efforts made to secure vehicles.

- i. If Contractor is unable to provide a vehicle, the State reserves the right to cancel any pending order(s) and/or the State Price Agreement and award a State Price Agreement to the next lowest Bidder or to conduct another bid, or exercise other remedies such as the Uniform Commercial Code (UCC) to acquire vehicles in a timely manner. Unless otherwise approved by SFM or other Purchasing Entities, all model year 2024 or newer vehicles ordered request to be delivered and invoiced no later than September 30, 2024. See §2 D Order Terms.

#### C. Delivery of Goods and Performance of Services

- i. Contractor shall provide all Goods and perform all Services described in each Order.
- ii. Unless specifically agreed to otherwise in an Order, Contractor shall deliver all Goods under an Order in good, working and undamaged condition. All

Goods shall be free on board (“F.O.B.”) destination to the location specified in the Order.

- iii. If a Good in an Order is out of stock, Contractor may only provide a substitute Good if it has notified the Purchasing Entity for that Order, in writing, that the Good is out of stock and has received the Purchasing Entity’s approval to provide the substitute Good. Purchasing Entities may request additional information comparing the substitute Good with the original Good in the Purchasing Entity’s sole discretion

#### D. Inspection and Acceptance

- i. Goods delivered to a Purchasing Entity under an Order shall not be deemed accepted prior to that Purchasing Entity inspecting the Goods in accordance with the Order and accepting those Goods.
- ii. Services provided to a Purchasing Entity under an Order shall not be deemed completed until that Purchasing Entity has reviewed the Services, ensured that all Services were completed in accordance with the Order and have been accepted by the Purchasing Entity.

#### E. Ordering Support

- i. Contractor shall provide the State and each Purchasing Entity with the contact information for the individual or individuals within Contractor’s organization who are assigned to handle questions and resolve problems that Purchasing Entity may have in relation to the Work or an Order.
  - a. Contractor shall make personnel available from 8:00 a.m. to 5:00 p.m. Mountain Time, as adjusted for daylight savings time, at a minimum, each Business Day as necessary to handle questions and resolve problems received by Contractor.
  - b. Contractor shall make all of these individuals available by phone (both through a local number and a toll-free number), fax and email at all times that the individual is available to handle questions and resolve problems received by Contractor.
  - c. Contractor shall provide all of these individuals with the ability to access the account information and other information relating to the State or Purchasing Entities to be able to respond to questions and resolve problems relating to any Order, including, without limitation, the status of Orders, delivery, back-orders, pricing, discounts, product availability, product information, and accounts and billing.
- ii. Contractor shall provide all training to Purchasing Entities necessary for those Purchasing Entities to place Orders and properly use the Goods and Services, as requested by Ordering Entities.
- iii. Training on placing Orders shall include, without limitation, training on aspects of ordering, online ordering, product delivery, product returns, and Contractor’s customer service processes, as requested by the Purchasing Entity.

- a. Training on properly using the Goods and Services shall include, without limitation, training and providing information on energy efficiency of Goods, new features, opportunities for manufacturer/certified set up and training, Environmentally Preferable Products, and other services or options that are offered or available related to the Goods and Services, as requested by the Purchasing Entity.

#### F. Order Disputes, Termination and Resolution

- i. If a dispute related to an Order arises between Contractor and a Purchasing Entity, Contractor shall meet with the Purchasing Entity to attempt to resolve the issue. If Contractor is unable to resolve the issue with the Purchasing Entity, then Contractor may request assistance from the State by submitting a request in writing, which includes the pertinent information about the dispute and the assistance sought by Contractor, in accordance with §17 of the main body of this Contract. Nothing in this section shall be interpreted as limiting the rights or obligations of Contractor, the State or any Purchasing Entity under this Contractor of any Order.
- ii. Purchasing Entities may terminate an Order if it determines that Contractor was in breach of that Order. Termination of an Order shall not automatically terminate any other Order or this Contract.
- iii. If a Purchasing Entity gives Contractor notice of breach or terminates an Order because of Contractor's breach of that Order, Contractor shall provide notice to the State of that breach or termination with the Purchasing Entity within 5 Business Days following Contractor's receipt of that notice of breach or termination.

### 4. VOLUME AND OPERATIONAL REPORTING

#### A. Volume Reporting

- i. The State will use a centralized method of tracking volume. Contractor shall populate a Quarterly Volume Report, using the format as specified by the State, for each State Fiscal Year Quarter that contains, at a minimum, all of the following:
  - a. A summary volume report that includes, but is not limited to, all of the following for the quarter that the report covers:

The total spent by each type of Purchasing Entity under this Contract.

The total of the list cost of all items purchased by each type of Purchasing Entity under this Contract.

The total estimated cost savings for each type of Purchasing Entity under this Contract, calculated as the total list cost minus the total spent for that Purchasing Entity.

The total paid through the use of a procurement card or credit card for each Purchasing Entity under this Contract.

The total sales of Environmentally Preferable Products, as defined in the State's Environmentally Preferable Purchasing Policy, for each Purchasing Entity under this Contract.

Any additional summary information as requested by the State.

- b. A detail report that includes, but is not limited to, all of the following for each sale that occurred during the quarter that the report covers:
          - The name of the Purchasing Entity who the sale was made to.
          - The date of the sale.
          - A listing of each item purchased in the sale, including the name of the item, the quantity of the item, the unit price for the item, the extended cost for the item calculated by multiplying the unit price by the quantity, the list price per unit for the item, the extended list cost for the item calculated by multiplying the quantity by the list price, and the savings on the item calculated by subtracting the extended cost from the extended list cost.
          - Any other detail information as requested by the State.
      - ii. Contractor shall deliver a Quarterly Volume Report to the State's representative as identified in Section 17 of the Contract on a quarterly basis.
        - a. DELIVERABLE: Quarterly Volume Report
        - b. DUE: Quarterly, within 30 calendar days following the end of the State Fiscal Year quarter that the report covers.
      - iii. If any due date for a Quarterly Volume Report falls on a day that is not a Business Day, then the due date shall be automatically extended to the next Business Day, unless otherwise directed by the State.
      - iv. All data and information contained in a Quarterly Volume Report shall be the property of the State and shall not be considered proprietary.
    - B. Additional Operational Reporting
      - i. Upon request by the State, the Contractor shall develop and deliver to the State Ad-Hoc Operational Reports that include all detailed and summary transaction, historical or payment information related to the State or any of the Purchasing Entities as requested by the State.
        - a. DELIVERABLE: Ad-Hoc Operational Reports
        - b. DUE: Within 10 Business Days following the State's request for that information, unless the State agrees to a longer period of time in writing.

## 5. PERIODIC BUSINESS REVIEWS

- A. The State may schedule periodic business reviews to review Contractor's performance under this Contract.
- B. Contractor shall ensure personnel assigned to the Contract are available for these meetings with the State as scheduled by the State.
- C. Contractor's key personnel designated in §17 shall be available for all regularly scheduled meetings between Contractor and the State, unless the State has granted prior, written approval otherwise.

## 6. CLOSEOUT PERIOD

- A. This Contract shall have a Closeout Period that begins 30 days prior to the expiration of this Contract and continues until the State has determined that all Work has been completed.
- i. During the Closeout Period, Contractor shall complete all of the following, as directed by the State:
  - a. Provide to the State, or any other contractor at the State's direction, all reports, data, systems, Deliverables and other information reasonably necessary for the State to ensure Contractor's completion of the Work, as determined by the State.
  - b. Notify any Subcontractors of the termination of the Contract, as directed by the State.
  - c. Remove all references to the State's price agreement from its websites, materials and other documentation, and inform entities that contact Contractor that it no longer has a price agreement with the State.
- ii. The Closeout Period may extend past the termination of the Contract. The State will perform a closeout review to ensure that Contractor has completed all requirements of the Closeout Period. If Contractor has not completed all of the requirements of the Closeout Period by the date of the termination of the Contract, then any incomplete requirements shall survive termination of the Contract.

## 7. PRICING

### A. Price Lists

- i. The State may publish any pricing information under this Contract, including, without limitation the pricing shown on Exhibit C, Vehicle and Price List, on the State's website and any other website as the State determines is necessary or efficient to facilitate the use of this Contract by Purchasing Entities.
- ii. If Contractor modifies any of its prices in accordance with §B, or discontinues any item shown on the existing pricing information, Contractor shall provide updated pricing information to the State for the State to publish.

### B. Price Modifications

#### i. Price Increases

- a. Contractor may request an increase in the prices listed in Exhibit C by submitting its request to the State in writing as described in §17 of the main body of this Contract. Requests for increases in prices are limited as follows:
- b. Contractor may not submit a request for a price increase to the State fewer than 3 days prior to when Contractor intends those increased prices to be effective.
- c. The State may approve or deny any request for a price increase based on the information provided by Contractor and other circumstances in its sole discretion.
- d. If the State approves a price increase, that price increase shall not take effect unless it is included in this Contract.
- e. Contractor may only begin using the increased prices in Orders that are issued following the effective date of the modification that increases the prices. For Orders placed prior to a price increase that are in effect at the time of the price increase, Contractor shall only charge the Purchasing Entity the prices that were in effect at the time the Order was placed.

- f.** If the State does not approve a price increase, or Contractor increases its prices without submitting a request to the State, then those increased prices shall be void in any Order in which they are used and Contractor shall fulfill the Order at the existing rates approved by the State under this Contract. Contractor's use of rates in any Order that exceed those approved by the State under this Contract shall be a material breach of this Contract.
- ii.** Price Decreases and Ceiling Prices
  - a.** Contractor may decrease its prices shown in Exhibit C at any time by providing written notice to the State.
  - b.** The prices listed in Exhibit C are Ceiling Prices, and Contractor may offer lower prices to Purchasing Entities, and Purchasing Entities may negotiate lower prices with Contractor, without the review or approval of the State. Contractor shall not allow a Subcontractor to charge an amount greater than the Ceiling Price for any Order.

## EXHIBIT B, STATEMENT OF WORK

### 1. GOODS AND/OR SERVICES

Contractor shall provide 2024 or newer model year vehicles.

### 2. SPECIFICATIONS

- A. At a minimum all vehicles ordered shall include manufacturer standard new vehicle equipment for 2024 model year or newer fleet vehicles. Vehicles that do not meet current Federal emission standards but are “covered” with Department of Energy credits will not be accepted.
- B. Vehicle options shall be provided as factory installed under the terms of the full, factory-backed, bumper-to-bumper warranty. Contractor installed options are not permitted unless pre-approved by the State or Purchasing Entity in writing. If a Contractor substitutes an Original Equipment Manufacturer (OEM) option with a non-OEM option, the State or Purchasing Entity may return the vehicle for a correctly equipped vehicle any time after the non-OEM option is discovered. The State or Purchasing Entity may also require the Contractor to reimburse the State or Purchasing Entity for all expenses and fees related to the repair of a non-OEM option that fails within the standard warranty period.
- C. In the event that OEM is unable to deliver ordered vehicle(s) within the model year ordered, State Fleet Management (“SFM”) or the Purchasing Entity reserves the right to select and accept as non-conforming goods such dealer stock unit(s) (as close to original specifications as possible) as they are available. With respect to such non-conforming goods, SFM or the Purchasing Entity will be invoiced at the Price as listed in Exhibit C; this will only apply to vehicles ordered prior to build-out/factory fleet close dates and considered within normal and acceptable ordering and build out time frames. Vehicles ordered after the last order date has been announced by the OEM will not be subject to this clause.
- D. For each vehicle ordered, Contractor will provide an approved form by the Purchasing Entity that will include the following information:
  - i. Date Contractor received SFM or Purchasing Entity Order
  - ii. Manufacturer’s Factory Order # and date received
  - iii. Manufacturer’s Factory Production Date
  - iv. Estimated date of delivery to SFM or Purchasing Entity
- E. The projected delivery time shall be 90-200 days from order placement.

### 3. OTHER PROJECT REQUIREMENTS

- A. **Clean Fuel Fleet Program** - Clean fuel vehicles provided shall include a full factory warranty and be serviceable by any Factory Authorized Dealer.
- B. **Alternative Fuels** - Alternative fuel vehicles provided shall include a full factory warranty and be serviceable by any Factory Authorized Dealer. Dealer installed conversions are NOT acceptable unless they are part of an OEM-/Dealer- certified program and On-Board-Diagnostics (OBD) II/III compatible. Such vehicles shall be specifically designed to operate on alternative fuel as their primary fuel. Information for Dealers authorized to repair and service alternative fuel vehicles (“AFVs”), if different from all OEM dealers, shall be provided by Contractor.

- C. **Hybrid and Electric Vehicles** - Vehicles offered shall include a full factory warranty and be serviceable by any Factory Authorized Dealer.
- D. **Tires** - Tires provided on vehicles shall be all season/mud and snow radials or open-side-lug all terrain tires when specified. Closed-lug design tires are NOT acceptable for an all-terrain tire option.
- E. **All vehicles delivered to any Purchasing Entity must be a road ready vehicle unless prior written notification has been made.**
- F. **Warranty** - The States minimum standard warranty period for all 2024 or newer vehicles shall be 3 years or 36,000 miles and shall cover each ordered vehicle inclusive of all options and accessories.
- G. **Conditions of Contract** - If Contractor is unable to provide a vehicle, the State reserves the right to cancel any pending order(s) and/or the State Price Agreement and award a State Price Agreement to the next lowest bidding Contractor or to conduct another bid, or exercise other remedies.
- H. **Due to State budget conditions, SFM cannot accept any vehicles prior to March 1, 2024 unless authorized by SFM. Contractors shall make all deliveries after this date. The exceptions to this condition are: Public Safety, Undercover and Patrol vehicles and vehicles that may have Federal Grant funding or Agency Funding. Additionally, Purchasing Entities may elect to accept their vehicles earlier and/or later than SFM. Contractors will work directly with Purchasing Entities to ensure all dates are met.**
- I. If a model year change occurs during the contract period, or if the awarded vendor will allow, 2025 model year vehicles may be sold under the terms, conditions, and prices of this State Price Agreement. Model year substitutions MUST be approved in writing by SFM or Purchasing Entity.
- J. Contractor shall notify SFM within five (5) business days in writing of any mid-year model changes including discontinuations, mid-year introductions, etc., as related to Exhibit C Vehicle and Price List.
- K. **Compliance Standards** - Vehicles delivered shall be in full compliance with all applicable federal and state laws, rules and standards regarding construction and performance. This includes, but is not limited to the Federal Motor Vehicle Safety Standards (FMVSS), EPA emission level requirements, and state noise standards.
- L. **Delivery Requirements** - Vehicles shall be delivered under the terms and conditions and the resulting State Price Agreements completed as a result of the bid solicitation and shall be of the same make, model, and equipment level as bid. Substitutions will not be allowed. The SFM Vehicle Body Codes listed in Exhibit 1 of the bid specifications indicate the vehicle types, size and sample representative models designated/used by SFM. The Gross Vehicle



Weight Rating (GVWR) for the vehicles bid shall meet or exceed the minimum GVWR when specified in the standard specifications.

Vehicles are to be delivered complete with all manufacturer standard new vehicle equipment and must be in compliance with the 2024 or newer Vehicle Specifications for each body code and requested optional items as listed on the SFM or Purchasing Entity purchase order. SFM and any Purchasing Entity reserve the right to return a vehicle after acceptance that is not complete according to the 2024 or newer Vehicle Specifications for each body code and the right to rescind any purchase order, if a vehicle delivered and accepted is subsequently discovered to be non-conforming. The Contractor shall promptly bring any non-conforming vehicle into conformity with the above mentioned Vehicle Specifications or accept return of vehicle and reimburse any monies paid by the State or Purchasing Entity.

**M. Delivery Compliance for State Fleet Management and Purchasing Entity -** The following requirements apply to vehicles at time of delivery to SFM or the Purchasing Entity.

**i. Contractors shall bring the following items in the SFM or Purchasing Entity office at the time of scheduled delivery (all documents shall be typed):**

- (a) The Contractor's invoice with a typed Vehicle Identification Number (VIN), the State or Ordering Purchase Order Number, and the Dealer Stock Number.
- (b) The manufacturer's window sticker with price and option info (Contractor shall not leave the sticker on the vehicle door glass).
- (c) The manufacturer's "Certificate of Origin" with a typed assignment as follows (there shall be no corrections):

1001 East 62nd Ave  
Denver, CO 80216

- (d) The Application for Title and the Bill of Sale (if used for odometer disclosure).
- (e) Two sets of keys plus the key code (usually on a sticker or tag) needed for key duplication.
- (f) A weight slip and VIN slip and VIN Verification shall be provided whenever a body has been modified (i.e., hi-cube vans, box trucks and buses and stake beds, etc.).

**ii. Contractors shall leave the following items in the vehicle at the time of scheduled delivery:**

- (a) The owner's manual visible on the front seat.
- (b) The Dealer Stock Number on the windshield.
- (c) A sixty (60) day permit shall be attached in the rear window of the vehicle.

- (d) **Vehicles shall be washed, HAVE LICENSE PLATE BRACKETS AND SCREWS INSTALLED ON THE VEHICLE, be serviced and in standard “make ready” condition (i.e. prepared for immediate use including no less than a one-quarter (1/4) tank reading of fuel and full tanks of Diesel Emission Fluid when equipped with DEF tanks). Note: Vehicles utilizing the following fuel types must be delivered with no less than ¼ tank of fuel: CNG, diesel, propane, etc. Vehicles equipped with DEF tanks must be delivered with full fuel tanks, or vehicles will be refused.**
- (e) SFM or the Purchasing Entity shall make a cursory visual check of each delivered vehicle’s condition and options to expedite the delivery process. Should any problems be found after delivery, SFM or the Purchasing Entity shall up to four (4) weeks to inspect and reject the vehicle while it is still on their lot. If rejected, the Contractor shall retrieve the vehicle within one (1) business day of notification via email for correction/repairs, and then shall redeliver the vehicle as soon as the repairs are complete. The dealer shall expedite repairs to its maximum capability, so as not to cause financial hardship to the State or Purchasing Entity.

**N. Delivery Terms and Compliance for Institutions of Higher Education, Political**

**Subdivisions and Non-Profits** - All institutions of Higher Education, Political Subdivisions and Registered Non-Profits must specify on the Purchase Order or commitment document all delivery terms and conditions that apply. Delivery instructions to the institutions of higher education, cities, counties or other Purchasing Entities are to be similar to State delivery instructions.

- i. The State’s terms are FOB destination with freight included to destinations in the Metropolitan Denver area (7 county areas to include: Denver, Adams, Arapahoe, Boulder, Douglas, Broomfield and Jefferson). Deliveries outside of the 7-county area are FOB destination with freight added, which shall be pre-negotiated in writing between Purchasing Entity and Contractor.
- ii. Any Purchasing Entity may arrange to pick up a vehicle from the awarded Contractor at no additional charge.
- iii. Contractor is expected to comply with delivery instructions issued by Institutions of Higher Education, Political Subdivisions and Non-Profits. Any changes or clarifications must be negotiated and agreed to by the applicable Institution of Higher Education, Political Subdivision, or Non-Profit.
- iv. The State Procurement Administrator managing the State Price Agreement should be notified immediately of any issues related to the delivery of vehicles.

**O. Quotation of Vehicles for Institutions of Higher Education, Political Subdivisions and Non-Profits** - At the request of a political subdivision, Contractor shall begin all vehicle quotes with the State Awarded Standard Vehicle Base Price. Vehicle quotes that begin with a Contractor MSRP or quotes that cannot provide a pricing breakdown that includes the awarded Standard Vehicle Base Price will not be considered valid.

Contractors shall include on any, quotation requested by a political subdivision, the OEM Model number and any OEM codes for all specifications, accessories, and up-fits, when an OEM code is available.

- P. **Legislative Changes** - The State reserves the right to amend this contract in response to Colorado legislative changes that affect this program.
- Q. **Invoicing and Payment** - The Contractor shall send all invoices to SFM or the Purchasing Entity as instructed on the Purchase Order. Invoices shall include the corresponding Purchase Order number. Invoices are not to be sent to the State Purchasing & Contracts Office.
- R. **Term of the Price Agreement (Contract)** - In the event that a Contractor can offer an awarded vehicle after September 30, 2024 the State reserves the right to issue an extension of one year or less to the State Price Agreement. Extensions must be issued prior to August 31, 2024.
- S. **Sex Offender Registration Information Requirements** - Contractor must comply with the following laws in order to have employees on-site at a State of Colorado facility:
- Colorado Revised Statutes, Title 16-22-103, et.seq.  
Code of Federal Regulations, 34 CFR 668.46  
Jeanne Clery Act 20 USC 1092 (f)
- T. **Name or Address Changes** - Contractor must notify the State of any changes to the Contractor's name or address within fifteen business days of change.
- U. **Invoicing** – State Purchasing Entities are Colorado PERA affiliated employers. In the event billable personal services are performed by the Contractor, pursuant to Colorado SB06-235 and CRS §24-51-1101(2), the Contractor must notify in writing (email is acceptable) the State Purchasing Entity's representative listed on the Order within fifteen (15) calendar days from the date of receipt of any Order if the services provided or to be provided were or will be performed by a PERA retiree (as defined at CRS §24-51-101).

***(THE REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.)***

## EXHIBIT C, VEHICLE AND PRICE LIST

Find Detail Sheets attached in BIDS

Body Code	Body Code Description	Model Year	Make	Model	Base Price
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K2	Pass Util Medium, 4X4 (5 Pass) Ford Explorer Low	2024	Ford	Explorer	\$41,885

## **EXHIBIT D, HIPAA BUSINESS ASSOCIATE AGREEMENT**

This HIPAA Business Associate Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

### **1. Purpose**

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information (“PHI”). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111-5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

### **2. Definitions**

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- a. Business Associate. “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and shall refer to Contractor.
- b. Covered Entity. “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.
- c. Information Technology and Information Security. “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

### **3. Obligations and Activities of Business Associate**

#### **a. Permitted Uses and Disclosures**

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate’s obligations under the Contract.
- ii. To the extent Business Associate carries out one or more of Covered Entity’s obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all

requirements of Subpart E that apply to Covered Entity in the performance of such obligation.

- iii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
    - A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
    - B. the person notifies Business Associate of any Breach involving PHI of which it is aware.
  - iv. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.
- b. Minimum Necessary.** Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).
- c. Impermissible Uses and Disclosures**
- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
  - ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.
- d. Business Associate's Subcontractors**
- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.
  - ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.
  - iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.
- b. Access to System.** If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <http://oit.state.co.us/about/policies>.

- c. Access to PHI.** Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.
- d. Amendment of PHI**
- i.** Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
  - ii.** Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.
- e. Accounting Rights.** Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.
- f. Restrictions and Confidential Communications**
- i.** Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
    - A.** a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
    - B.** a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.
  - ii.** Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.
  - iii.** Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.
- g. Governmental Access to Records.** Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.
- h. Audit, Inspection and Enforcement**
- i.** Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
  - ii.** Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this

Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

**i. Appropriate Safeguards**

- i.** Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
- ii.** Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
- iii.** Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
- iv.** Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

**j. Safeguard During Transmission**

- i.** Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.
- ii.** Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

**k. Reporting of Improper Use or Disclosure and Notification of Breach**

- i.** Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.
- ii.** Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
- iii.** Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
- iv.** Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.

**l. Business Associate's Insurance and Notification Costs**





## 2. Obligations of Covered Entity

- a. **Safeguards During Transmission.** Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.
- b. **Notice of Changes**
  - i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.
  - ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

## 3. Termination

### a. Breach

- i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
- ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

### b. Effect of Termination

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.
- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

## 4. Injunctive Relief

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the

HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

## **5. Limitation of Liability**

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

## **6. Disclaimer**

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

## **7. Certification**

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

## **8. Amendment**

- a.** Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
  - i.** In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.
  - ii.** Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
  - iii.** Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.
  - iv.** Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:

- A.** Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
  - B.** Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.
- b.** Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

### **9. Assistance in Litigation or Administrative Proceedings**

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

### **10. Interpretation and Order of Precedence**

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

### **11. Survival**

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.

## APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

### 1. Purpose

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

### 2. Additional Terms

- a. Additional Permitted Uses. In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
  - i. Reserved.
- b. Additional Permitted Disclosures. In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
  - i. Reserved.
- c. Approved Subcontractors. Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
  - ii. Reserved.
- b. Definition of Receipt of PHI. Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
  - i. Reserved.
- c. Additional Restrictions on Business Associate. Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
  - i. Reserved.
- d. Additional Terms. Business Associate agrees to comply with the following additional terms under the Agreement:
  - i. Reserved.



Date: **08/08/2024 6:43 PM**  
 Salesperson: **Cole Green**  
 Manager: **Cole Green**

**BUSINESS NAME** **Wellington Fire Protection District**  
**CONTACT** **Todd**

Home Phone:

Address : **WELLINGTON, CO 80549**  
**LARIMER**

Work Phone: **(970) 568-3232**

E-Mail : **tgermain@wftd.org**

Cell Phone: **(603) 350-3435**

**VEHICLE**

Stock # : **A79369**      New / Used : **New**      VIN : **1FMSK8DHXRGGA79369**      Mileage : **23**

Vehicle : **2024 Ford Explorer**      Color : **YZ OXFORD WHIT**

Type : **XLT 4dr 4x4**      **K8D**

**TRADE IN**

Payoff :      VIN :      Mileage :

Vehicle :      Color :

Type :

Selling Price **43,695.00**

tinted windows

**550.00**

2 extra keys with remotes

**650.00**

extra lights

**500.00**

Total Purchase

**45,395.00**

Trade Allowance

Trade Difference

Trade Payoff

Cash Deposit

Balance

**45,395.00**

Customer Approval: \_\_\_\_\_ Management Approval: \_\_\_\_\_  
 By signing this authorization form, you certify that the above personal information is correct and accurate, and authorize the release of credit and employment information. By signing above, I provide to the dealership and its affiliates consent to communicate with me about my vehicle or any future vehicles using electronic, verbal and written communications including but not limited to eMail, text messaging, SMS, phone calls and direct mail. Terms and Conditions subject to credit approval. For Information Only. This is not an offer or contract for sale.

Billing Address:  
 WELLINGTON FIRE PROTECTION  
 DIST  
 8130 3RD ST  
 WELLINGTON, CO 80549  
 US

Shipping Address:  
 WELLINGTON FIRE PROTECTION  
 DIST  
 WIRELESS ADVANCED  
 COMMUNICATIONS  
 3901 W SERVICE RD  
 EVANS, CO 80620  
 US

Quote Date:08/07/2024  
 Expiration Date:10/06/2024  
 Quote Created By:  
 Wes Chisnall  
 Account Manager  
 wes.chisnall@bearcom.com  
 970-590-3461

End Customer:  
 WELLINGTON FIRE PROTECTION DIST  
 Nick Schneeberger  
 nschneeberger@wfpd.org  
 970-691-2229

Contract: 19860 - NASPO 00318  
 Payment Terms:30 NET

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
	APX™ 8500					
1	M37TSS9PW1AN	APX8500 ALL BAND MP MOBILE	1	\$5,893.68	\$4,302.39	\$4,302.39
1a	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	1	\$6.00	\$4.38	\$4.38
1b	G831AD	ADD: SPKR 15W WATER RESISTANT	3	\$66.00	\$48.18	\$144.54
1c	G628AC	ADD: REMOTE MOUNT CABLE 17 FT APX	3	\$17.00	\$12.41	\$37.23
1d	G51AT	ENH:SMARTZONE	1	\$1,650.00	\$1,204.50	\$1,204.50
1e	G78AT	ENH: 3 YEAR ESSENTIAL SVC	1	\$288.00	\$288.00	\$288.00
1f	GA05509AA	DEL: DELETE UHF BAND	1	-\$800.00	-\$584.00	-\$584.00
1g	GA01606AA	ADD: NO BLUETOOTH/WIFI/GPS ANTENNA NEEDED	1	\$0.00	\$0.00	\$0.00
1h	GA00093AN	ADD: APX8500 E5 TRI-CONTROL HARDWARE	1	\$1,100.00	\$803.00	\$803.00
1i	G89AC	ADD: NO RF ANTENNA NEEDED	1	\$0.00	\$0.00	\$0.00
1j	G444AH	ADD: APX CONTROL HEAD SOFTWARE	1	\$0.00	\$0.00	\$0.00
1k	G67EH	ADD: REMOTE MOUNT E5 MP	1	\$327.00	\$238.71	\$238.71



Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
1l	GA01517AA	DEL: NO J600 ADAPTER CABLE NEEDED	1	\$0.00	\$0.00	\$0.00
1m	G806BL	ENH: ASTRO DIGITAL CAI OP APX	1	\$567.00	\$413.91	\$413.91
1n	GA01670AA	ADD: APX E5 CONTROL HEAD	1	\$717.00	\$523.41	\$523.41
1o	W22BA	ADD: STD PALM MICROPHONE APX	3	\$79.00	\$57.67	\$173.01
1p	QA09113AB	ADD: BASELINE RELEASE SW	1	\$0.00	\$0.00	\$0.00
1q	G193AK	ADD: ADP ONLY (NON-P25 CAP COMPLIANT) (US ONLY)	1	\$0.00	\$0.00	\$0.00
1r	G361AH	ENH: P25 TRUNKING SOFTWARE APX	1	\$330.00	\$240.90	\$240.90
2	LSV00Q00202A	DEVICE PROGRAMMING	1	\$100.00	\$100.00	\$100.00
3	HAF4016A	UNITY GAIN ANTENNA QUARTERWAVE 762-870MHZ - ROOF MOUNT	1	\$29.00	\$21.17	\$21.17
4	EQ000103A02	MULTIPLEXER, ALL BAND, APX8500, VEHICLE	1	\$214.92	\$156.89	\$156.89
5	CB000091A08	CABLE, COAXIAL, CABLE, COAXIAL, QMA PLUG TO QMA PLUG CONNECTOR (BECU QMA)	1	\$124.20	\$90.67	\$90.67
6	HAD4021A	VHF ANT WIDEBAND 136-174 MHZ	1	\$64.80	\$47.30	\$47.30

**Grand Total**
**\$8,206.01(USD)**
**Notes:**

- Unless otherwise noted, this quote excludes sales tax or other applicable taxes (such as Goods and Services Tax, sales tax, Value Added Tax and other taxes of a similar nature). Any tax the customer is subject to will be added to invoices.







Customer: WELLINGTON FIRE PROT. DIST.  
Purchase Order #:

Customer #: 1746130  
Sales Rep: Alec Helm

Quote #: 2442  
Delivery Due Date:

Ship-to Address:  
WELLINGTON FIRE PROT. DIST.  
PO BOX 10  
WELLINGTON, CO 80549  
United States

Bill-to Address:  
WELLINGTON FIRE PROT. DIST.  
PO BOX 10  
WELLINGTON, CO 80549  
United States

Item	Item Description	Qty	Price	Total
NMOKHFUD	TES 0-6000MHZ,3/4 MOUNT	1	\$20.00	\$20.00
FH12	ATC FUSE HOLDER	1	\$5.00	\$5.00
ATMM02	TES 6 16AWG WIRE BUTT CONNECT	1	\$5.00	\$5.00
MISC	MISC	1	\$100.00	\$100.00
	MISC SHOP SUPPLIES			
MISC	MISC	1	\$5,000.00	\$5,000.00
	SPECIAL OPS VAULT bunker gear storage white board slide out radio head with mic few trays for storage			
INS	INSTALLATION	1	\$1,100.00	\$1,100.00

This quote is valid until: Sep 6, 2024

Total: \$6,230.00

This quote is based upon BearCom's standard terms of sales, rental and service, located at <https://bearcom.com/terms-of-sale>

The information contained in these documents is confidential, privileged and only for the information of the intended recipient and may not be used, published, or redistributed without BearCom's written consent.

CUSTOMER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_