NOTICE OF REGULAR MEETING AND AGENDA

ST. VRAIN VALLEY SCHOOLS
academic excellence by design

May 10, 2017

Educational Services Center
395 South Pratt Parkway
Longmont, Colorado 80501

Robert J. Smith, President, Board of Education — Dr. Don Haddad, Superintendent of Schools

DISTRICT VISION STATEMENT

To be an exemplary school district which inspires and promotes high standards of learning and student well-being in partnership with parents, guardians and the community.

DISTRICT MISSION STATEMENT

To educate each student in a safe learning environment so that they may develop to their highest potential and become contributing citizens.

ESSENTIAL BOARD ROLES

Guide the superintendent
Engage constituents
Ensure alignment of resources
Monitor effectiveness
Model excellence

BOARD MEMBERS

John Ahrens, Member
Debbie Lammers, Secretary
Dr. Richard Martyr, Member
Paula Peairs, Treasurer
Joie Siegrist, Vice President
Amory Siscoe, Asst Secretary
Robert J. Smith, President

1. CALL TO ORDER:

7:00 pm Regular Business Meeting

2. ADDENDUMS/CHANGES TO THE AGENDA:

3. AUDIENCE PARTICIPATION:

4. VISITORS:

1. Superintendent's Excellence in Education Awards-Erie High and Niwot High Teachers
2. Silver Creek and Skyline High School Boettcher Scholarship Recipients
3. Design Challenge Participants

5. BOARD/SUPERINTENDENT REPORTS:

6. REPORTS:

7. CONSENT ITEMS:

1. Approval: Staff Terminations/Leaves
2. Approval: Staff Appointments
3. Approval: Approval of Minutes for the April 12, 2017 Regular Meeting, the April 19, 2017 Study Session, and the April 26, 2017 Regular Meeting
4. Approval: Approval of Purchase and Trade-In of Cisco Network Products
5. Approval: Approval of Purchase of Microsoft Software Licenses
6. Approval: Approval of Contract Increase-Specialized Education of Colorado, Inc. (SECO)
7. Approval: Approval of Contract Increase-Architect Agreement for Mead High Addition & Renovation Project
8. Approval: Approval of Change Order 1 to Construction Manager/ General Contractor (CMGC) Contract for Carbon Valley Academy Renovation Project
9. Approval: Approval of Change Order 1 to Construction Manager/ General Contractor (CMGC) Contract for Flagstaff Academy Renovation Project
10. Approval: Approval of Change Order 1 to Construction Manager/ General Contractor (CMGC) Contract for Twin Peaks Charter Academy Renovation Project
11. Approval: Approval of Payment to United Power-Erie PK-8

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12. Approval: Approval of Easement Agreement with the Town of Erie for Erie PK-8
13. Approval: Approval of Transport Gas Contract with nTherm
14. Approval: First Reading, Adoption, Board Exhibit GBEE*-E-2 – Non-Staff Responsible Use of the Internet and Electronic Communications Agreement

8. ACTION ITEMS:

1. Recommendation: Adoption of Capital Reserve Budget for 2017/18
2. Recommendation: Approval of Medicaid Contract
3. Recommendation: Approval of Request to Grant Exception to Staff Ethics/Conflict of Interest, Board Policy GBEA

9. DISCUSSION ITEMS:

1. First Reading, Discussion, New Board Policy JRCB* -- Student Information Privacy and Protection; and Regulation JRCB*-R -- Student Information Privacy and Protection

10. ADJOURNMENT:

Board of Education Meetings: Held at 395 South Pratt Parkway, Board Room, unless otherwise noted:

Wednesday, May 17	6:00 – 8:00 pm Study Session-**Altona Middle**
Wednesday, May 24	6:30 pm Financials 7:00 pm Regular Meeting
Monday, June 5	11:00 am – 3:00 pm Board Retreat-**Frederick High School**

May 10, 2017

Terminations/Leaves of Absence

EFFECTIVE	NAME	POSITION/LOCATION	FMLA	NON-FMLA MEDICAL	PERSONAL	EXTENDED	RESIGNED	RETIRED	COMMENTS
	ADMINISTRATIVE/PROFESSIONAL/TECHNICAL								
5/31/2017	Burmeister, Jeremy	Assistant Principal, HS / Longmont HS					X		
6/16/2017	Frothingham, Deanna	Principal / Alpine ES					X		
6/30/2017	Harris, Richard	Assistant Principal, HS / Longmont HS					X		
5/3/2017	Race, Judith	Drafter / Operations & Maintenance						X	11 years
	LICENSED								
4/24/2017	Adler, Megan	Teacher, Grade 3 / Alpine ES	X						
4/17/2017	Allen, Mark	Teacher, Science / Frederick HS	X						
5/25/2017	Bustamante, Amy	Teacher, Grade 3 / Legacy ES					X		
5/25/2017	Cooper, Jodie	Teacher, Literacy / Northridge ES						X	16 Years
5/25/2017	Fobes, Thomas	Teacher, PE / Longs Peak MS						X	16 Years
5/25/2017	Fraley, Mark	Teacher, PS/ECSE / Mountain View ES					X		
4/17/2017	Giese, Katherine	Teacher, Art / Silver Creek HS	X						
5/25/2017	Hanson, Eric	Teacher, Language Arts / Skyline HS					X		
5/25/2017	Hatgi, Megan	Teacher, SE / Altona MS					X		
4/24/2017	Hofmann, Rachel	Teacher, Social Studies / Mead HS	X						
5/25/2017	Hughes, Susan	Teacher, Grade 5 / Longs Peak MS					X		
5/25/2017	Keenan, Holly	Teacher, Grade 4 / Sanborn ES						X	34 Years
4/3/2017	Kemp, Kathryn	Teacher, Language Arts / Erie MS	X						
6/9/2017	Koenig, Sheila	Department Clerk / Learning Services						X	31 years
4/3/2017	Lambert, Suzanne	Teacher, ESL / Mountain View ES					X		
3/1/2017	Lange, Astrid	Teacher, Foreign Language / Niwot HS					X		
3/13/2017	Lee, Beth	Teacher, ESL, GT, Literacy / Erie HS	X						
5/25/2017	MacMitchell, Ashley	Teacher, 4th Grade / Eagle Crest ES					X		
5/25/2017	Marsh, Leslie Jo	Occupational Therapist / Student Services						X	10 Years
5/25/2017	Martorano, Salvatore	Teacher, Instructional Music / Westview MS					X		
5/25/2017	Martus, Jill	Teacher, Grade 5 / Black Rock ES						X	*29 Years
5/25/2017	Mason, Marcia	Teacher, Computer Tech Teacher / Skyline HS						X	14 years
5/25/2017	McNeely, Andrew	Teacher, Grade 1 / Centennial ES					X		
5/25/2017	Millert-Otero, Natalie	Teacher, Language Arts / Altona MS					X		
5/25/2017	Morrill, Mary	Teacher, Title I / Columbine ES						X	30 Years
4/10/2017	Niss, Gayle	Teacher, SE / Main Street School						X	14 Years
6/1/2017	Olmstead, Amanda	Social Worker / Main Street School					X		
5/4/2017	Ordway, Jennifer	Teacher, Elementary Music / Eagle Crest ES		X					
5/25/2017	Parker, Denise	Permanent Substitute / Human Resources					X		
5/25/2017	Ratcliff, Julia	Teacher, Math / Mead MS					X		

*Will work a 110 Day Contract for 2017-18

May 10, 2017

Terminations/Leaves of Absence

5/1/2017	Sliz, Shauna	Teacher, Social Studies / Niwot HS	X						
5/25/2017	Spangler, Beth	Teacher, Math / Mead HS					X		
5/25/2017	Stechman, Debbie	Teacher, Kindergarten / Columbine ES						X	16 Years
5/25/2017	Suttle, Kayla	Teacher, SE / Red Hawk ES					X		
5/25/2017	Tank, Shawn	Teacher, Math/Computer Tech / Longmont HS					X		
5/25/2017	Thesenga, David	Teacher, Science / Timberline PK-8					X		
5/25/2017	Topham, Joanna	Teacher, SE / Red Hawk ES					X		
4/17/2017	Vanderveen, Joan	Occupational Therapist / Student Services					X		
7/26/2017	Ward, Edy-Kay	Occupational Therapist / Student Services						X	26 Years
4/13/2017	Yemm, Stephanie	Instructional Program Consultant / Student Services		X					
4/21/2017	Zahn, Rebecca	Social Worker / Frederick HS	X						
	CLASSIFIED								
4/4/2017	Auldridge, Alice Denise	Bus Driver, SE / Transportation	X						
5/24/2017	Beadleston, Lauren	Health Clerk/Child Care Director / Burlington ES					X		
5/25/2017	Botello, Rafael	Paraeducator, Instructional / Timberline PK-8					X		
4/27/2017	Boyce, Michael	Custodian / Career Technical Education					X		
2/22/2017	Brunsman, Barbara	Nutrition Services Worker / Legacy ES					X		
4/26/2017	Cantor De Mejia, Martiza	Paraeducator, Instructional / Rocky Mountain ES	X						
6/30/2017	Carr, Paula	Secretary, Department / Main Street School						X	21 Years
5/25/2017	Connor, Brittany	Paraeducator, Instructional / Black Rock ES							Non Renew
4/30/2017	Crispin, James	Custodian / Skyline HS						X	22+ years
4/24/2017	Cunningham, Leah	Health Clerk / Mountain View ES		X					
5/25/2017	Deller, Suzanne	Paraeducator, Instructional / Burlington ES							Non Renew
5/4/2017	Derr, Nethelda	Custodian / Lyons ES	X						
4/28/2017	Easter, Lauren	Non-Instructional Program Consultant / Student Assistance Services					X		
4/21/2017	Embler, Kathleen	Attendance Clerk / Black Rock ES					X		
4/6/2017	Frank, Lynette	Secretary, Principals / Legacy ES	X						
5/25/2017	Gerhard, Denise	Paraeducator, Instructional / Black Rock ES							Non Renew
5/3/2017	Green, Misty	Secretary, Principals / Blue Mountain ES	X						
5/26/2017	Guillen, Jessica	Clerk, Attendance / Columbine ES					X		
5/25/2017	Hagen, Nancy	Paraeducator, SE / Niwot ES						X	23 Years
5/25/2017	Haid, Christina	Paraeducator, Instructional / Red Hawk ES					X		
5/25/2017	Hart, Gerald	Paraeducator, SSN/Autism / Niwot ES					X		
6/9/2017	Heltemes, Luann	Secretary, School / Trail Ridge MS						X	15 years
5/25/2017	Horvath, Jessica	Lab Technician / Fall River ES					X		
5/25/2017	Keller, Mistyrose	Paraeducator, Instructional / Timberline PK-8					X		
5/25/2017	Kester, Cynthia	Paraeducator, Instructional / Black Rock ES							Non Renew
4/21/2017	Lloyd, Theodora	Nutrition Services Worker / Timberline PK-8	X						
5/24/2017	Lueb, Diane	Director, Child Care / Legacy ES						X	15 Years

*Will work a 110 Day Contract for 2017-18

May 10, 2017

Terminations/Leaves of Absence

4/28/2017	Melendez, Prudencio	Custodian / Indian Peaks ES						X	15 years
5/25/2017	Milillo, Chelsey	Paraeducator, Instructional / Black Rock ES							Non Renew
4/18/2017	Naegellen, Jessica	Paraeducator, Instructional / Northridge ES					X		
3/16/2017	Overmyer, Kelly	Nutrition Services Worker / Twin Peaks Charter					X		
3/24/2017	Penalosa, Hannah	Nutrition Services Worker / Twin Peaks Charter					X		
4/21/2017	Pickett, Danny	Bus Driver/Garage Assistant / Transportation					X		
3/20/2017	Reger, Thomas	Custodian / Red Hawk ES	X						
5/25/2017	Rubio, Nicole	Paraeducator, Instructional / Black Rock ES							Non Renew
4/20/2017	Sabo, Jennifer	Bus Assistant, SE /Transportation					X		
4/6/2017	Salisbury, Tammy	Nutrition Services Worker / Westview MS		X					
2/17/2017	Sandoval, Marie	Nutrition Services Worker / Timberline PK-8					X		
5/25/2017	Saunders, Gail	Paraeducator, Instructional / Black Rock ES							Non Renew
5/25/2017	Schmitz, Christopher	Lab Technician / Red Hawk ES					X		
4/11/2017	Sloane, Johnna	Director, Child Care / Alpine ES					X		
4/28/2017	Sorensen, Paul	Bus Driver / Transportation					X		
4/17/2017	Stephens, Susan	Paraeducator, SE / Timberline PK-8					X		
4/21/2017	Stephenson, Raquel	Paraeducator, SE / Niwot HS					X		
4/20/2017	Valdovinos, Virginia	Nutrition Services Worker / Trail Ridge MS					X		
4/4/2017	Walker, Lawrence	Bus Driver / Transportation					X		
1/27/2017	Whitaker, Elexas	Bus Assistant, SE / Transportation					X		
3/23/2017	Williams, Elaine	Paraeducator, SE / Mead HS					X		
5/25/2017	Willmeng, Mary	Paraeducator, Instructional / Indian Peaks ES							Non Renew
4/7/2017	Wright, Artette	Bus Driver / Transportation	X						

*Will work a 110 Day Contract for 2017-18

May 10, 2017

Staff Appointments

HIRE DATE	NAME	POSITION	LOCATION	NEW POSITION	REPLACEMENT
	ADMINISTRATIVE/PROFESSIONAL/TECHNICAL				
7/1/2017	Estrada, Catrina	Assistant Principal	Thunder Valley K-8		X
7/1/2017	James, Sarah	Executive Director - Human Resources	Human Resources		X
	LICENSED				
	CLASSIFIED				
4/17/2017	Bagley, Tamara	Behavior Coach	Main Street School		X
4/19/2017	Gilstrap, William	Technician - On-Call	Operations & Maintenance		X
4/11/2017	Kush, Olga	Paraeducator, Instructional	Blue Mountain ES		X
4/12/2017	Ledesma, Kathleen	Paraeducator, ECSE	Longmont Estates ES	X	

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Board of Education Meeting Minutes

RECOMMENDATION

That the Board of Education approve the minutes from the April Board Meetings.

BACKGROUND

The Board will be asked to approve the minutes from the April 12, 2017 Regular Meeting, the April 19, 2017 Study Session, and the April 26, 2017 Regular Meeting.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Purchase and Trade-in of Cisco Network Products

RECOMMENDATION

That the Board of Education approve the purchase and trade-in of Cisco Network Products for a net bid amount of $322,099.85 to Venture Technologies.

BACKGROUND

The products to be purchased are part of a planned upgrade to the District network infrastructure. The funding for the products is from general funds dedicated to technology.

The Purchasing Department issued Bid No. 2017-065 on April 11, 2017. Two (2) responses were received from authorized Cisco resellers on Thursday, April 27, 2017. Award is recommended to the lowest qualified, responsive and responsible bidder, Venture Technologies.

	Venture Technologies	PCMG/Global GovEd
Net Bid Amount	$322,099.85	$616,285.14

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Purchase of Microsoft Software Licenses

RECOMMENDATION

That the Board of Education approve the purchase of Microsoft Software Licenses for an amount of $125,295.44 from CDW Government.

BACKGROUND

This purchase will provide server licensing in the data center and schools as well as the standardized office productivity software suite for both students and staff for the 2017-2018 fiscal year.

These licenses are being purchased from CDW Government through a Colorado BOCES Association/Microsoft Education Alliance Agreement (MEAA) that represents the entire state and brings a number of great benefits and support from Microsoft to all of our schools.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Contract Increase–Specialized Education of Colorado, Inc. (SECO)

RECOMMENDATION

That the Board of Education approve an increase of funds for the service agreement with Specialized Education of Colorado, Inc. (SECO) to provide in-district special education programs and staffing to students placed by the District and authorize Greg Fieth, Chief Financial Officer, to execute all necessary contract documents in accordance with Board of Education policy. The one-year original cost was originally estimated at $400,000; however, due to number of students and excess costs associated with building facility needs for the programming, funds need to increase to $600,000.

BACKGROUND

During the 2015-2016 school year, the Executive Director of Special Education researched organizations to provide a special education program in-district to selected SVVSD students. SECO (known to District as Sierra School) would provide administration, highly qualified staff and a proprietary program in-district that features intensive academic instruction and a unique behavior management system for students with emotional disabilities and/or other disabilities. The program provides each student with individualized interventions required to succeed academically, socially and behaviorally. The program initially consists of two classrooms but will expand by one classroom per year for each of the next three years on commencement of each renewal term. The program will be staffed and equipped to serve at least ten students in each classroom but will not be required to operate unless the program has enrollment of eight students in each classroom.

SECO will staff each classroom with a special education teacher and two instructional assistants. SECO will be responsible to comply with all applicable federal, state, and local laws, rules and regulations in relation to the special education services provided for students participating in the program, as well as all policies and procedures of SVVSD Board of Education.

The District will be responsible to identify classroom locations, recommend placement of students in the program, transport students to/from the program, appropriate food services for all students participating in the program, and maintenance and janitorial services for the classrooms.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Contract Increase - Architect Agreement for Mead High Addition & Renovation Project

RECOMMENDATION

That the Board of Education approve a contract increase of $116,904 for a total contract amount of $959,315 with DLR Group for the design of the Mead High School Addition and Renovation Project, and further authorize Brian Lamer, Assistant Superintendent of Operations, to sign contract documents.

BACKGROUND

The contract increase will cover the architectural fees to complete the design of the departmentalized science room layout in the classroom wing addition, and remodeling of the existing science labs into classrooms.

Funding for the contract increase is available in the 2016 Bond program.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Change Order 1 to Construction Manager/General Contractor (CMGC) Contract for Carbon Valley Academy Renovation Project

RECOMMENDATION

That the Board of Education approve Change Order 1 for $218,980 to the Construction Manager/General Contractor (CMGC) contract with Fransen Pittman Construction Company for the Carbon Valley Academy Renovation Project for a $322,353 contract value including contingency. Further, that the Board authorize Brian Lamer, Assistant Superintendent of Operations, to sign contract documents and initiate scope changes in accordance with Board of Education policy.

BACKGROUND

The CMGC review committee selected Fransen Pittman Construction Company for the Carbon Valley Academy Renovation project. The project scope of work includes installation of classroom doors and acoustic ceiling tiles on the second floor. Change Order 1 sets the overall project contract value.

This project is funded under the 2016 Bond.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Change Order 1 to Construction Manager/General Contractor (CMGC) Contract for Flagstaff Academy Renovation Project

RECOMMENDATION

That the Board of Education approve Change Order 1 for $520,669 to the Construction Manager/General Contractor (CMGC) contract with Fransen Pittman Construction Company for the Flagstaff Academy Renovation Project for a $652,037 contract value including contingency. Further, that the Board authorize Brian Lamer, Assistant Superintendent of Operations, to sign contract documents and initiate scope changes in accordance with Board of Education policy.

BACKGROUND

The CMGC review committee selected Fransen Pittman Construction Company for the Flagstaff Academy Renovation project. The project scope of work includes a new parent drop-off loop and a renovated front office for increased security. Change Order 1 sets the overall project contract value.

This project is funded under the 2016 Bond.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Change Order 1 to Construction Manager/General Contractor (CMGC) Contract for Twin Peaks Charter Academy Renovation Project

RECOMMENDATION

That the Board of Education approve Change Order 1 for $637,522 to the Construction Manager/General Contractor (CMGC) contract with Fransen Pittman Construction Company for the Twin Peaks Charter Academy Renovation Project for a $773,658 contract value including contingency. Further, that the Board authorize Brian Lamer, Assistant Superintendent of Operations, to sign contract documents and initiate scope changes in accordance with Board of Education policy.

BACKGROUND

The CMGC review committee selected Fransen Pittman Construction Company for the Twin Peaks Charter Academy Renovation project. The renovation will provide for exterior door upgrades, wi-fi installation, and finishing orchestra and science rooms. Change Order 1 sets the overall project contract value.

This project is funded under the 2016 Bond.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Payment to United Power - Erie PK-8

RECOMMENDATION

That the Board of Education approve the payment of $164,490 to United Power for design, construction, miscellaneous fees, materials and equipment required for the electrical service for the Erie PK-8 site as outlined in the April 18, 2017 letter. Further, authorize Brian Lamer, Assistant Superintendent of Operations, to sign appropriate documents in accordance with Board of Education Policy.

BACKGROUND

United Power is the public utility providing power for Erie PK-8. Funding for the purchase is available in 2016 Bond.

UNITED POWER

Your Touchstone Energy® Cooperative

April 18, 2017

Mike Gesie
St. Vrain Valley School
395 S. Pratt Parkway
Longmont, CO 80501

Re: WO#201703056 – St. Vrain Valley School PK-8

Dear Mr. Gesie:

United Power (United) has completed the design and cost estimate to provide electric service for St. Vrain Valley School District Erie PK-8, located at 3280 County Rd 5. (See attached design.)

The estimated cost to provide and install the electric service is $165,240. That cost includes the labor, material, administrative and general expense required to install the electric service as designed. The estimate is valid for ninety (90) days, per Tariff E-004, on file with the Colorado Public Utilities Commission or available upon request.

The enclosed $164,490 invoice includes the following items:

Estimated Construction Cost	**$**	**150,240**
Plant Investment Fee	**$**	**13,500**
Automated Meter Reading or CT/PT Metering Charge	**$**	**1,500**
Less United Power Expense, if applicable	**$**	**-**
Less Application/Design Fee	**$**	**(750)**
Net Construction Deposit Invoice	**$**	**164,490**

In accordance with United's Tariff E-007, on file with the Colorado Public Utilities Commission or available upon request, United will analyze the final cost and compare it to the estimate when the work order is closed. If the actual cost is less than originally estimated, United shall refund the difference to the Applicant. If the actual cost to United proves to have been greater than the construction deposit, Applicant shall pay the difference to United within thirty (30) days following written notice of such excess amount.

Please complete the enclosed private utilities form (excluding subdivision developments and overhead projects), indicating any private utilities in the project area. You may return the signed and completed form and your payment in the envelope provided. Payment in full is required prior to construction. **Subdivision developers must return the signed final design for the underground distribution and the streetlight design, if applicable.**

Payment of the invoice implies agreement with the terms stated below:

- Applicant grants to United the right to enter the location listed above to construct, operate and maintain the electric distribution facilities, together with full right of ingress and egress.
- Applicant shall perform all right-of-way clearing required for the construction of the facilities described above with United's specifications.
- United shall perform all trenching and backfilling, including any rock removal and backhoe work, in accordance with United's specifications, except street crossing.
- The Applicant shall establish and stake all easements of rights-of-way on land owned by the Applicant for installation of United's facilities. The Applicant shall assume all responsibility for proper location thereof and shall reimburse United for any expense due to subsequent changes and for any damage claims against United, including full reimbursement for damages established and expenses incurred in regard thereto, plus reasonable attorney's fees and court costs.
- United shall install the facilities described herein in accordance with good engineering practice after the Applicant has established said right-of-way, cut easements to final grade, and prior to the paving of any streets and the construction of any curbs and gutters. The Applicant shall reimburse United for any expense due to subsequent changes by the Applicant.
- The Applicant shall be responsible for coordinating all construction activities within the project, including, but not limited to, the installation of telephone, gas, and cable TV. The installation crew must be on site the day United digs the trench. United will not leave the trench open overnight and will close it at the end of each working day. The Applicant shall reimburse United for any expenses incurred by United to repair damages to its facilities caused by the Applicant or other parties during the construction period
- Applicant will be responsible for accurately locating and visibly marking all private underground utilities, (including but not limited to water, telephone, sewer, septic, cable TV, fiber, and gas) prior to the construction of any facilities by United. Any damages to unmarked underground utilities by United or United's contractors will be at the Applicant's expense and responsibility to repair.
- Applicant shall be responsible for all service laterals in residential subdivision and underground commercial/industrial services. See approved service lateral contractor list on our web site at www.unitedpower.com under the New Construction tab and click on the hyperlink for Metering/Laterals/Inspections, or call the construction hotline at 303-637-1323.
- Electric service will be provided to Applicant at United's applicable rates and upon the terms and conditions now in effect or at the rates and upon such terms and conditions as may hereafter be lawfully adopted by United for such service.
- United reserves the right to revise said estimate and to require an increase in the non-refundable construction deposit from the Applicant to cover unexpected costs to install its facilities. Such costs will be described on a **change order** and billed per incident according to the time, equipment, and materials used. If the Applicant requires construction of the facilities when the ground is frozen or at a time when inclement weather will result in construction costs greater than the cost originally estimated, the applicant shall advance the estimated additional cost to United, as a contribution in aid of construction, prior to the construction of the facilities.
- United will be responsible for locating all public utilities through Colorado 811.
- Applicant may terminate this project at any time prior to or during the actual construction of electric facilities. In such an event, a portion or all of the consideration paid by the Applicant in

advance to United hereunder shall be used to reimburse and pay United for all expenses or liabilities which may theretofore have been incurred by United for engineering, for materials, and equipment purchased or ordered, prior to the date of termination; with the balance of the construction deposit, if any, to be refunded to the Applicant.

Thank you for the opportunity to provide this service. If you have questions, please call me at 303-637-5608.

Sincerely,

Andy Ross
Project Coordinator I

ADR:ggj

Enclosures

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Easement Agreement with Town of Erie for Erie PK-8

RECOMMENDATION

That the Board of Education approve the Grant of Permanent Access and Utilities Easement Agreement with the Town of Erie for the Erie PK-8 site and further, authorize Brian Lamer, Assistant Superintendent of Operations, to sign contract documents in accordance with Board of Education Policy.

BACKGROUND

The annexation agreement with the Town of Erie for the Erie PK-8 site requires the school district to provide easements for utilities. This easement agreement is for the domestic water to serve the building.

The easement agreement has been reviewed by District legal counsel.

GRANT OF PERMANENT ACCESS AND UTILITIES EASEMENT AGREEMENT

THIS GRANT OF PERMANENT ACCESS AND UTILITIES EASEMENT AGREEMENT, ("Agreement") made and entered into this 10th day of May, 2017, by and between St. Vrain Valley School District RE-1J, whose address is 395 South Pratt Parkway, Longmont, Colorado 80501, hereinafter referred to as the "Grantor," and the TOWN OF ERIE, a Colorado Municipal Corporation, whose address P.O. Box 750, 645 Holbrook Street, Erie, Colorado 80516, hereinafter referred to as the "Grantee," collectively, the "Parties".

WITNESSETH:

WHEREAS, Grantor is the owner of real property located in Weld County, State of Colorado, more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property").

WHEREAS, the Parties desire to provide for a permanent access and utilities easement across a portion of the Property in the location more particularly described on Exhibits "B" attached hereto and made a part hereof (the "Easement Property"), in accordance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee mutually agree as follows:

1. *Grant of Easement.* Grantor hereby grants and conveys to Grantee, its successors and assigns, a permanent, perpetual non-exclusive easement to enter, occupy and use the Easement Property to construct, reconstruct, use, operate, maintain, repair, patrol, replace, enlarge and remove one or more water lines, sanitary sewer lines, storm drainage facilities, pipelines, conduits, vaults, accessories, improvements, or manholes and all necessary underground wires and appurtenances thereto, including, but not limited to, electric or other control systems, video or other control systems, cables, wires, connections, conduits, and surface appurtenances (the "Improvements") in, through, over, across, under and above the Easement Property (the "Easement").

2. *Ingress and Egress.* The Grantee, its employees, agents, contractors, representatives, successors and assigns shall have and exercise the right of ingress and egress in, to, through, over, under, above and across the Property for access to and from the Easement Property in order to perform construction, reconstruction, operation, installation, use, maintenance, repair, replacement, upkeep, monitoring, and removal of the Improvements.

3. *No Structures or Buildings to interfere with the Easement.* The Grantor shall not construct or place any structure or building, yard light, shrub, tree, woody plant or nursery stock, whether temporary or permanent, of any kind or nature situated on the Easement Property that will interfere with or obstruct the access or Easement granted herein. Any such structure or item placed on the Easement Property may be removed by the Grantee without liability for damages arising there from. Grantor shall retain the right to make use of the servient property of the

Easement Property, except for such prohibitions as are contained herein, and except for such use as might endanger or interfere with the rights of the Grantee in its use of the Easement. If Grantor constructs or places any structure or building or item prohibited herein on the Easement Property, Grantor shall reimburse the Grantee for Grantee's expenses in removing such structure or prohibited item from the Easement Property.

4. *Grantor's Warranty.* Grantor warrants that it has full right and lawful authority to make the grant of the Easement herein contained, and promises and agrees to defend against any defect in title to the Easement Property, the Easement or the right to make the grant of the Easement as herein contained.

5. *Non-exclusive Use.* The Grantee agrees, following written request to and approval by Grantee, that public utilities such as water, sanitary sewer, storm sewer, gas, electric lines, and other appropriate utilities may be installed in the Easement Property as long as such utilities do not interfere with the Grantee's rights as herein granted or the Grantee's use of the Easement and the Easement Property. All surface and subsurface uses of the Easement Property, including fences, must be approved in writing by the Grantee prior to installation.

6. *Damage, Maintenance of Grantor's Improvements.* The Grantor, at its expense, shall be solely responsible for the maintenance of all Grantor improvements which may be located within the Easement Property. In the event said Grantor improvements within the Easement Property are damaged due solely to Grantee's negligence, the Grantee will repair and or replace the said improvements at Grantee's expense.

7. *Ownership, Maintenance of Grantee's Improvements, Damage.* Following completion of the construction and installation of the Improvements, the Improvements shall be the property of the Grantee and shall be owned by the Grantee. The Grantee, at its expense, shall be solely responsible for the maintenance and repair of the Improvements, once installed by the Grantee. Repair and or replacement of the said Improvements shall be at Grantee's sole expense.

8. *Protection of Easement.* The Grantee is acquiring the Easement in order to ensure to the Grantee a dominant easement for the exercise of Grantee's functions, and the exercise of any rights in the subject Easement other than those retained by the Grantor shall be within the discretion of the Grantee.

9. *Inurement.* Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.

10. *Complete Agreement.* This Agreement represents the complete agreement between the parties hereto, and supersedes any and all other prior agreements, written and oral, between the parties.

11. *Headings for Convenience Only.* The paragraph headings of this Agreement are for convenience only and the substantive portions hereof control without regard to the headings.

12. *Subjacent and Lateral Support.* The Grantor shall not impair the lateral or subjacent support for the Easement or the Improvements located therein.

13. *Cooperation.* The Grantor shall cooperate with the Grantee and shall not impair the Grantee's use of the Easement or the Improvements located therein.

14. *Modification.* This Agreement shall be modified in writing only, which writing must be executed by the parties hereto in order to be effective.

15. *Controlling Law.* This Agreement shall be governed under, and construed pursuant to, the laws of the State of Colorado, and the parties hereto agree to jurisdiction in the Courts of Weld County, Colorado.

16. *Annual Appropriations.* All financial obligations of Grantee set forth in this Agreement are subject to annual appropriation pursuant to C.R.S. § 29-1-110, as amended.

17. *Recordation of Agreement.* This Agreement shall be recorded by the Grantee in the real property records of the County of Weld, State of Colorado.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this GRANT OF PERMANENT ACCESS AND UTILITIES EASEMENT AGREEMENT as of the day and year first above written.

GRANTOR:

By: ________________________
(Name) Brian Lamer, Assistant Superintendent

STATE OF COLORADO)
) ss.
COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this ___ day of _______, 2017, by ____________________.

WITNESS my hand and official seal.
My commission expires:

____
Notary Public

GRANTEE:
TOWN OF ERIE, a Colorado municipal corporation

By: ________________________
Tina Harris, Mayor

ATTEST:

By: ________________________
Nancy Parker, Town Clerk

2.10.14 rev. 5.21.15

Exhibit A

[Legal Description of the Property]

Exhibit A

LAND SURVEY PLAT

LOCATED IN THE WEST HALF OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH P.M., TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

SHEET 1 OF 1

4157548 Pages: 1 of 1
11/12/2015 10:31 AM R Fee:$11.00
Carly Koppes, Clerk and Recorder, Weld County, CO

Parcel Description

(UNDERLYING PARCEL IS DESCRIBED AS)

A PORTION OF THE WEST HALF OF SECTION 16 EXCEPT THAT PORTION DESCRIBED IN ERIE HIGH SCHOOL ANNEXATION RECORDED IN WELD COUNTY ON DECEMBER 1, 2005 AT RECEPTION NO. 3343856

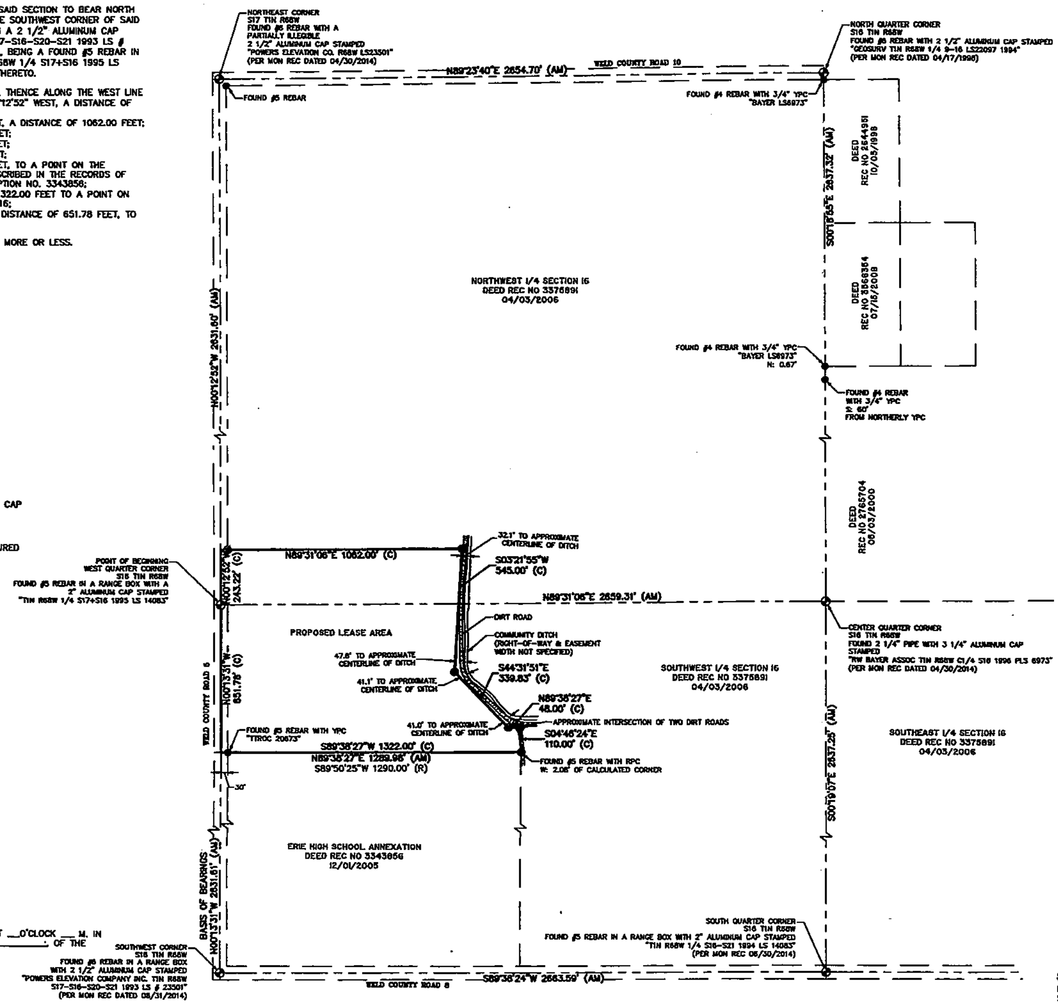
(NEW PARCEL DESCRIPTION PREPARED BY FLATIRONS, INC. AT REQUEST OF CLIENT)

A PARCEL OF LAND, LOCATED IN THE WEST HALF OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF SOUTHWEST QUARTER OF SAID SECTION TO BEAR NORTH 00°13'31" WEST, A DISTANCE OF 2831.61 FEET BETWEEN THE SOUTHWEST CORNER OF SAID SECTION, BEING A FOUND #6 REBAR IN A RANGE BOX WITH A 2 1/2" ALUMINUM CAP STAMPED "POWERS ELEVATION COMPANY INC. TIN R68W S17-S16-S20-S21 1993 LS # 23501" AND THE WEST QUARTER CORNER OF SAID SECTION, BEING A FOUND #5 REBAR IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "TIN R68W 1/4 S17+S16 1995 LS 14083", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

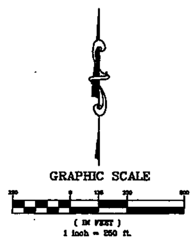
BEGINNING AT THE WEST QUARTER CORNER OF SECTION 16, THENCE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION, NORTH 00°12'52" WEST, A DISTANCE OF 243.22 FEET;
THENCE DEPARTING SAID WEST LINE, NORTH 89°31'06" EAST, A DISTANCE OF 1062.00 FEET;
THENCE SOUTH 03°21'55" WEST, A DISTANCE OF 545.00 FEET;
THENCE SOUTH 44°31'51" EAST, A DISTANCE OF 339.83 FEET;
THENCE NORTH 89°38'27" EAST, A DISTANCE OF 48.00 FEET;
THENCE SOUTH 04°46'24" EAST, A DISTANCE OF 110.00 FEET, TO A POINT ON THE NORTHERLY LINE EXTENDED OF A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF WELD COUNTY, RECORDED ON DECEMBER 1, 2005 AT RECEPTION NO. 3343856;
THENCE ALONG SAID NORTH LINE, SOUTH 89°38'27" WEST 1322.00 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 16;
THENCE ALONG SAID WEST LINE, NORTH 00°13'31" WEST, A DISTANCE OF 651.78 FEET, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 991,081 SQ.FT. OR 22.75 ACRES, MORE OR LESS.



Legend

⯐	FOUND ALIQUOT MONUMENT AS DESCRIBED
●	FOUND MONUMENT AS DESCRIBED
●	SET 18" #5 REBAR WITH 1 1/2" ALUMINUM CAP "FLATIRONS SURV 16406"
(AM)	AS MEASURED AT TIME OF SURVEY
(C)	CALCULATED FROM RECORD AND AS MEASURED INFORMATION



Depositing Certificate

DEPOSITED THIS _____ DAY OF __________, 20__ AT __O'CLOCK __ M. IN BOOK ________ OF LAND SURVEY PLATS AT PAGE ________, OF THE RECORDS OF WELD COUNTY, COLORADO.

SIGNED: ____________________

TITLE: ____________________

BY: ____________________

Notes

1. AT THE REQUEST OF THE CLIENT AND IN ACCORDANCE WITH C.R.S. 38-51-106(1)(B)(II), RIGHTS-OF-WAY AND EASEMENTS ARE NOT SHOWN HEREON.
2. ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. THIS LAND SURVEY PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF ST. VRAIN VALLEY SCHOOL DISTRICT, NAMED IN THE STATEMENT HEREON. SAID STATEMENT DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS STATEMENT BY THE SURVEYOR NAMING SAID PERSON.
4. THIS SURVEY IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
5. BASIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF NORTH 00°13'31" WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 16, BETWEEN THE SOUTHWEST CORNER OF SAID SECTION, BEING A FOUND #6 REBAR IN A RANGE BOX WITH A 2 1/2" ALUMINUM CAP STAMPED "POWERS ELEVATION COMPANY INC. TIN R68W S17-S16-S20-S21 1993 LS # 23501" AND THE WEST QUARTER CORNER OF SAID SECTION, BEING A FOUND #5 REBAR IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "TIN R68W 1/4 S17+S16 1995 LS 14083". COLORADO STATE PLANE COORDINATE SYSTEM, NORTH 0501 ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
6. NO UTILITIES ARE SHOWN HEREON. NO RESEARCH HAS BEEN DONE CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY OR LOCATION OF ANY UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES. ALL UNDERGROUND UTILITIES MUST BE FIELD LOCATED BY THE APPROPRIATE AGENCY OR UTILITY COMPANY PRIOR TO ANY EXCAVATION, PURSUANT TO C.R.S. SEC. 9-1.5-103.
7. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH. 18 U.S.C. § 1858.
8. THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
9. ONLY SPECIFIC IMPROVEMENTS ARE SHOWN HEREON FOR INFORMATIONAL PURPOSES. THIS IS NOT AN IMPROVEMENT SURVEY PLAT AS DEFINED BY C.R.S. 38-51-102 (9).
10. DATES OF FIELDWORK: APRIL 1, 2015
11. THE MAJORITY OF FOUND MONUMENTS FALL WITHIN MEASUREMENT TOLERANCES. HOWEVER THE TWO SHOWN OUT OF POSITION ARE OUTSIDE OF MEASUREMENT TOLERANCES AND ARE NOT AT THE CALCULATED LOCATIONS AS SHOWN HEREON.

Boundary Closure Report

COURSE: N00°12'52"W	LENGTH: 243.22'
COURSE: N89°31'06"E	LENGTH: 1062.00'
COURSE: S03°21'55"W	LENGTH: 545.00'
COURSE: S44°31'51"E	LENGTH: 339.83'
COURSE: N89°38'27"E	LENGTH: 48.00'
COURSE: S04°46'24"E	LENGTH: 110.00'
COURSE: S89°38'27"W	LENGTH: 1322.00'
COURSE: N00°13'31"W	LENGTH: 651.78'

PERIMETER: 4321.83'	AREA: 991081 SQ. FT.
ERROR CLOSURE: 0.00	COURSE: N82°55'24"W
ERROR NORTH: 0.000	EAST: -0.004

PRECISION 1: 4321830000.00

Surveyor's Statement

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., TO ST. VRAIN VALLEY SCHOOL DISTRICT, THAT A SURVEY OF THE ABOVE DESCRIBED PREMISES WAS CONDUCTED BY ME OR UNDER MY RESPONSIBLE CHARGE ON APRIL 1, 2015; THAT SAID SURVEY AND THE ATTACHED PRINT HEREON WERE MADE IN SUBSTANTIAL ACCORDANCE WITH C.R.S. 38-51-106 "LAND SURVEY PLAT".

JOHN B. GUYTON COLORADO P.L.S. #16406
CHAIRMAN & CEO, FLATIRONS, INC.

REVISION	DATE
1	
2	
3	
4	
5	
6	
7	
8	

LAND SURVEY PLAT
PREPARED FOR
ST. VRAIN VALLEY SCHOOL DISTRICT

Flatirons, Inc.
Surveying, Engineering & Geomatics
www.FlatironsInc.com
655 FOURTH AVE, LONGMONT, CO 80501, PH: (303) 776-1733, FAX: (303) 776-4355
3825 IRIS AVE, STE 395, BOULDER, CO 80301, PH: (303) 443-7001, FAX: (303) 443-9830
3660 DOWNING ST, UNIT E, DENVER, CO 80205, PH: (303) 936-6997

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 (SEAL)

JOB NUMBER:	15-65,337
DATE:	05-15-2015
DRAWN BY:	T. HENDERSON
CHECKED BY:	BOL/TAC/JZG

SHEET 1 OF 1

BY:THENDERSON FILE:65337-LSP-C15.DWG DATE:10/27/2015 7:13 AM

Exhibit B

[Legal Description of the Easement Property]

EXHIBIT "B"

LOCATED IN THE WEST HALF OF SECTION 16,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

A WATER LINE EASEMENT OVER AND ACROSS A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF WELD COUNTY, RECORDED ON MAY 26, 2016 AT RECEPTION NO. 4206840, LOCATED IN THE WEST HALF OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 16 TO BEAR NORTH 00°13'31" WEST, A DISTANCE OF 2631.61 FEET BETWEEN THE SOUTHWEST CORNER OF SECTION 16 BEING A FOUND #6 REBAR IN A RANGE BOX WITH A 2 1/2" ALUMINUM CAP STAMPED "POWERS ELEVATION COMPANY INC. T1N R68W S17-S16-S20-S21 1993 LS # 23501" AND THE WEST QUARTER CORNER OF SECTION 16 BEING A FOUND #5 REBAR IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "T1N R68W 1/4 S17+S16 1995 LS 14083", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID WEST QUARTER CORNER, THENCE SOUTH 83°38'43" EAST, A DISTANCE OF 60.40 TO THE POINT OF BEGINNING;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 89.50 FEET;
THENCE NORTH 45°00'00" EAST, A DISTANCE OF 39.33 FEET;
THENCE NORTH 90°00'00" EAST A DISTANCE OF 115.24 FEET;
THENCE NORTH 22°30'00" EAST, A DISTANCE OF 31.12 FEET;
THENCE NORTH 00°30'42" EAST, A DISTANCE OF 83.38 FEET;
THENCE NORTH 45°03'40" EAST, A DISTANCE OF 29.17 FEET;
THENCE SOUTH 44°56'20" EAST, A DISTANCE OF 13.38 FEET
THENCE SOUTH 00°30'42" WEST, A DISTANCE OF 100.61 FEET
THENCE SOUTH 22°30'00" WEST, A DISTANCE OF 37.51 FEET
THENCE SOUTH 67°30'00" EAST, A DISTANCE OF 26.17 FEET
THENCE SOUTH 22°30'00" EAST, A DISTANCE OF 13.94 FEET
THENCE SOUTH 22°30'00" WEST, A DISTANCE OF 9.11 FEET
THENCE SOUTH 70°04'49" EAST, A DISTANCE OF 3.27 FEET
THENCE SOUTH 19°55'11" WEST, A DISTANCE OF 10.00 FEET
THENCE NORTH 70°04'49" WEST, A DISTANCE OF 3.72 FEET
THENCE SOUTH 22°30'00" WEST, A DISTANCE OF 286.08 FEET
THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 354.60 FEET TO A POINT ON THE NORTH LINE OF A PARCEL OF LAND DESCRIBED IN THE RECORDS OF WELD COUNTY ON DECEMBER 1, 2005 AT RECEPTION NO. 3343856;

COLORADO LICENSED JOHN BRUCE RUSSELL 16406 PROFESSIONAL LAND SURVEYOR
4/14/17

JOB NUMBER: 16-68,570
DRAWN BY: T. HENDERSON
DATE: APRIL 14, 2017

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics
3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.FlatironsInc.com

BY:THENDERSON FILE:68570-PLAT-C16.DWG DATE:4/14/2017 3:47 PM

EXHIBIT "B"

LOCATED IN THE WEST HALF OF SECTION 16,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

THENCE DEPARTING SAID NORTH LINE, SOUTH 00°00'00" EAST, A DISTANCE OF 52.38 FEET;
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 30.00 FEET;
THENCE NORTH 00°00'00" EAST, A DISTANCE OF 52.19 FEET TO A POINT ON SAID NORTH LINE;
THENCE DEPARTING SAID NORTH LINE, NORTH 00°00'00" EAST, A DISTANCE OF 360.76 FEET;
THENCE NORTH 22°30'00" EAST, A DISTANCE OF 164.59 FEET;
THENCE NORTH 67°32'25" WEST, A DISTANCE OF 30.55 FEET;
THENCE NORTH 22°27'35" EAST, A DISTANCE OF 30.00 FEET;
THENCE SOUTH 67°32'25" EAST, A DISTANCE OF 30.57 FEET;
THENCE NORTH 22°30'00" EAST, A DISTANCE OF 96.44 FEET;
THENCE NORTH 67°30'00" WEST, A DISTANCE OF 31.40 FEET;
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 95.40 FEET;
THENCE SOUTH 45°00'00" WEST, A DISTANCE OF 39.33 FEET;
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 101.81 FEET;
THENCE NORTH 00°13'31" WEST, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID WATER LINE EASEMENT CONTAINING 34,955 SQ.FT. OR 0.80 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS EASEMENT DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC.

COLORADO LICENSED
JOHN BRUCE GUYTON
16406
4/14/17
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 16-68,570
DRAWN BY: T. HENDERSON
DATE: APRIL 14, 2017

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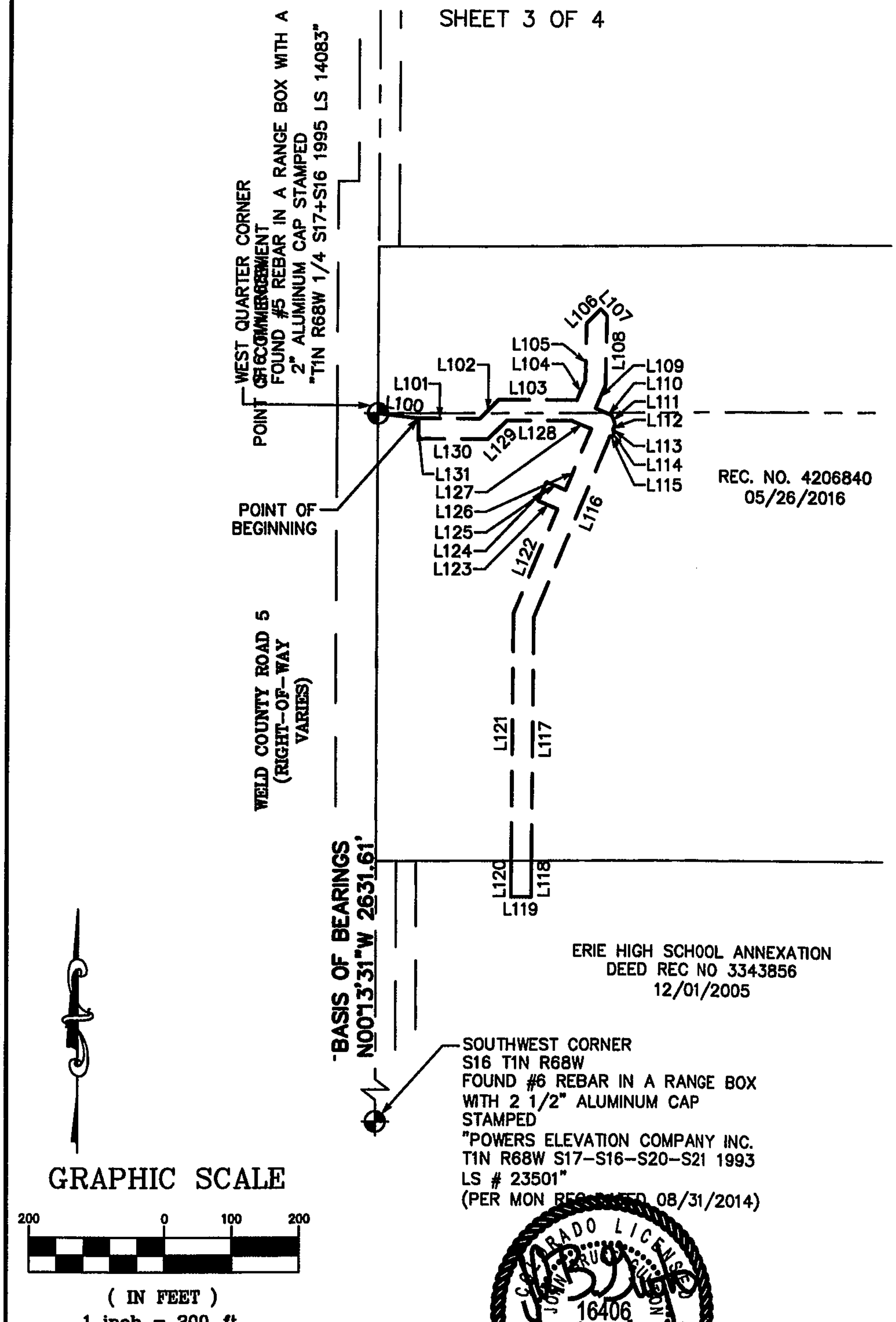
EXHIBIT "B"

LOCATED IN THE WEST HALF OF SECTION 16,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO



JOB NUMBER: 16-68,570
DRAWN BY: T. HENDERSON
DATE: APRIL 14, 2017

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BY:THENDERSON FILE:68570-PLAT-C16.DWG DATE:4/14/2017 3:39 PM

EXHIBIT "B"

LOCATED IN THE WEST HALF OF SECTION 16,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

PARCEL LINE TABLE		
LINE #	LENGTH	DIRECTION
L100	60.40	S83°38'43"E
L101	89.50	N90°00'00"E
L102	39.33	N45°00'00"E
L103	115.24	N90°00'00"E
L104	31.12	N22°30'00"E
L105	83.38	N00°30'42"E
L106	29.17	N45°03'40"E
L107	13.38	S44°56'20"E
L108	100.61	S00°30'42"W
L109	37.51	S22°30'00"W
L110	26.17	S67°30'00"E
L111	13.94	S22°30'00"E
L112	9.11	S22°30'00"W
L113	3.27	S70°04'49"E
L114	10.00	S19°55'11"W
L115	3.72	N70°04'49"W

PARCEL LINE TABLE		
LINE #	LENGTH	DIRECTION
L116	286.08	S22°30'00"W
L117	354.60	S00°00'00"E
L118	52.38	S00°00'00"E
L119	30.00	N90°00'00"W
L120	52.19	N00°00'00"E
L121	360.76	N00°00'00"E
L122	164.59	N22°30'00"E
L123	30.55	N67°32'25"W
L124	30.00	N22°27'35"E
L125	30.57	S67°32'25"E
L126	96.44	N22°30'00"E
L127	31.40	N67°30'00"W
L128	95.40	N90°00'00"W
L129	39.33	S45°00'00"W
L130	101.81	N90°00'00"W
L131	30.00	N00°13'31"W

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
16406
4/14/17

JOB NUMBER: 16-68,570
DRAWN BY: T. HENDERSON
DATE: APRIL 14, 2017

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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BY:THENDERSON FILE:68570-PLAT-C16.DWG DATE:4/14/2017 3:44 PM

EXHIBIT "B"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT FOR WATER LINE PURPOSES OVER AND ACROSS A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF WELD COUNTY, RECORDED ON MAY 26, 2016 AT RECEPTION NO. 4206840 AND A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF WELD COUNTY, RECORDED DECEMBER 1, 2005 AT RECEPTION NO. 3343856, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 16 TO BEAR NORTH 00°13'31" WEST, A DISTANCE OF 2631.61 FEET BETWEEN THE SOUTHWEST CORNER OF SECTION 16, BEING A FOUND #6 REBAR IN A RANGE BOX WITH A 2 1/2" ALUMINUM CAP STAMPED "POWERS ELEVATION COMPANY INC. T1N R68W S17-S16-S20-S21 1993 LS # 23501" AND THE WEST QUARTER CORNER OF SECTION 16, BEING A FOUND #5 REBAR IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "T1N R68W 1/4 S17+S16 1995 LS 14083", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID SOUTHWEST CORNER, THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 16, NORTH 00°13'31" WEST, A DISTANCE OF 1979.82 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF WELD COUNTY, RECORDED ON MAY 26, 2016 AT RECEPTION NO. 4206840; THENCE ALONG THE SOUTH LINE OF SAID PARCEL, NORTH 89°38'27" EAST, A DISTANCE 466.33 FEET TO THE POINT OF BEGINNING;

THENCE DEPARTING SAID SOUTH LINE, NORTH 00°20'02" WEST, A DISTANCE OF 41.62 FEET;
THENCE NORTH 89°39'58" EAST, A DISTANCE OF 30.00 FEET;
THENCE SOUTH 00°20'02" EAST, A DISTANCE OF 41.60 FEET TO THE SOUTH LINE OF SAID PARCEL;
THENCE SOUTH 00°20'02" WEST, A DISTANCE OF 54.34 FEET;
THENCE SOUTH 89°39'58" WEST, A DISTANCE OF 30.00 FEET;
THENCE NORTH 00°20'02" WEST, A DISTANCE OF 54.33 FEET TO THE NORTH LINE OF A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF WELD COUNTY, RECORDED DECEMBER 1, 2005 AT RECEPTION NO. 3343856 ALSO BEING THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 2,878 SQ.FT. OR 0.07 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS EASEMENT DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC.

COLORADO LICENSED
JOHN BRUCE GUYTON
16406
4/17/17
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 16-68,570
DRAWN BY: T. HENDERSON
DATE: APRIL 17, 2017

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

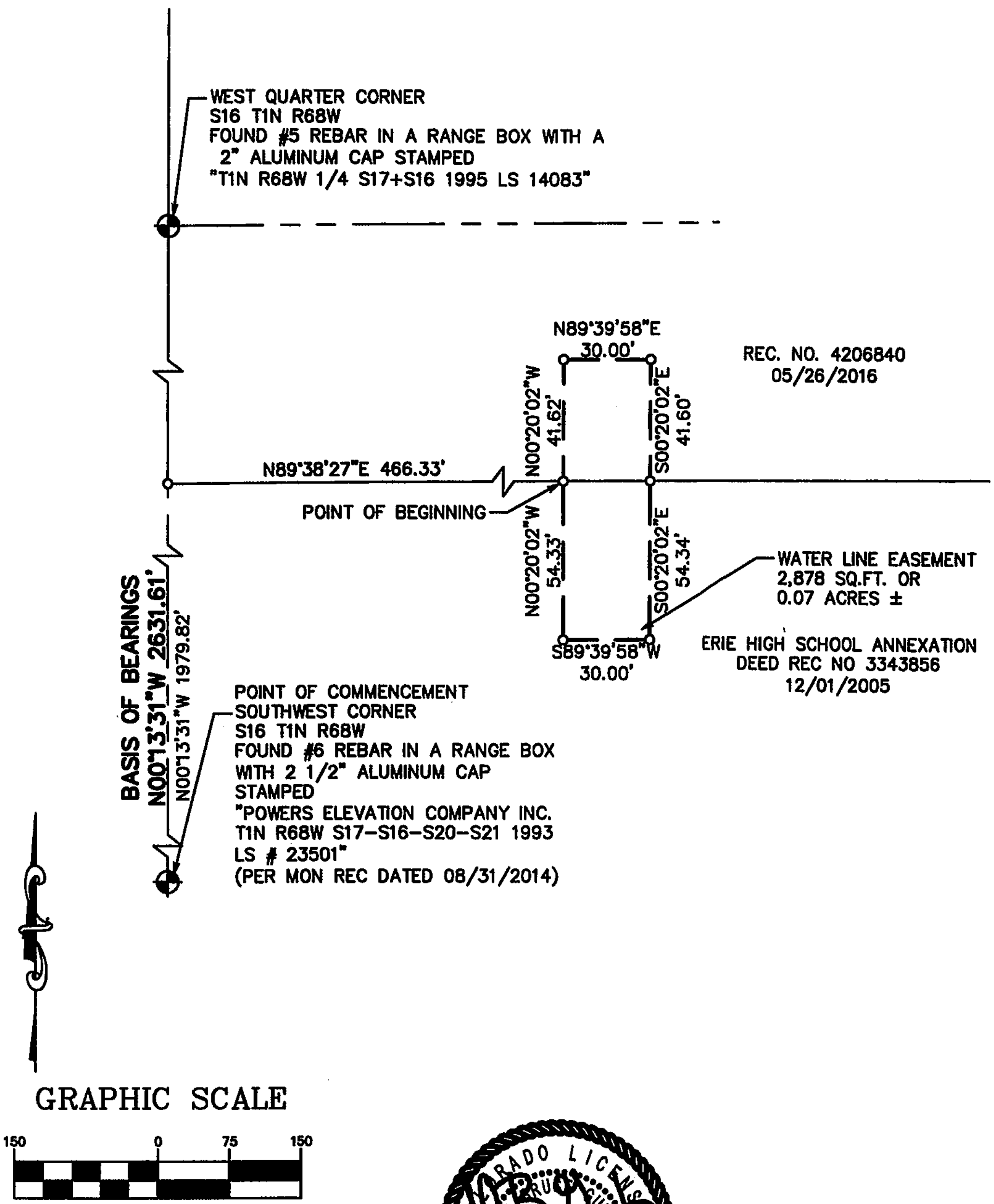
Flatirons, Inc.
Surveying, Engineering & Geomatics
3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.FlatironsInc.com

BY:THENDERSON FILE:68570-PLAT-C16.DWG DATE:4/17/2017 1:52 PM

EXHIBIT "B"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF ERIE, COUNTY OF WELD, STATE OF COLORADO

SHEET 2 OF 2



COLORADO LICENSED
JOHN BRUCE NOONAN
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BY:THENDERSON FILE:68570-PLAT-C16.DWG DATE:4/17/2017 1:53 PM

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Transport Gas Contract with nTherm

RECOMMENDATION

That the Board of Education approve the contract for a District-wide transport gas provider with nTherm, and further authorize Brian Lamer, Assistant Superintendent of Operations, to sign the contract documents.

BACKGROUND

Currently, the District has a contract with CenterPoint that began in September, 2012, and expires June 30, 2017. The City and County of Denver was under the same CenterPoint contract, and conducted a comprehensive Request for Proposal for a new transport gas provider. The bid was awarded to nTherm based on an evaluation of pricing, terms and conditions. The RFP allows for cooperative purchasing, and we propose participating under those provisions of the contract award.

The contract with nTherm would begin July 1, 2017 for one year with 3 one-year renewal periods. We currently pay $0.17/MMBTu for full requirements during the winter months and $0.13/MMBTu for full requirements during the summer months. Under the new contract with nTherm, we would pay $0.04/MMBTu for full requirements year-round which would amount to significant savings.

AGENCY AGREEMENT
FOR PUBLIC SERVICE COMPANY OF COLORADO
GAS TRANSPORTATION SERVICES
(FOR USE WITH MASTER AGREEMENTS)

The undersigned, by and on behalf of St Vrain Valley School District (Receiving Party), having a mailing address of 395 S Pratt Parkway, Longmont, CO 80501, hereby designates nTherm, LLC (Agent Shipper), having a mailing address of 3773 Cherry Creek N Dr, Suite 575, Denver, CO 80209, as its agent, with full authority to act on its behalf in obtaining and managing gas transportation service provided by Public Service Company of Colorado (Company), as specified below, for the transportation of gas supplies from Company's Receipt Points to Receiving Party at the following Delivery Point(s):

See attached list.

Receiving Party authorizes Agent Shipper to act on its behalf in contracting for gas transportation services provided by Company, arranging for the delivery of gas quantities to Company's Receipt Point(s) for Receiving Party including submitting all nominations therefore, managing gas transportation imbalances incurred on behalf of Receiving Party, receiving invoices from Company and paying all applicable charges for gas transportation service provided by Company to Receiving Party at the above Delivery Point(s). Receiving Party represents and warrants that it has not entered into a gas transportation service agreement with Company for deliveries to the above Delivery Point(s), but instead is hereby designating Agent Shipper to enter into such agreement with Company for that purpose on its behalf.

Agent Shipper and Receiving Party acknowledge that all service provided by Company is for the benefit of Receiving Party, and in the event that Agent Shipper or Receiving Party fails to make timely payment for service provided by Company, or otherwise is in default under the provision's of Company's Gas Transportation Tariff, this Agency Agreement may be revoked by Company and all service provided shall be subject to termination in accordance with Company's Gas Transportation Tariff. If such termination of service is as a result of Agent Shipper's failure to make payment, Receiving Party shall not be entitled to continued service, regardless of whether Receiving Party has made payment to Agent Shipper, until Company receives full and complete payment. Agent Shipper and Receiving Party shall be jointly and severally liable for all payments due and owing Company for all services provided.

As of the date in Section 9 below,,Agent Shipper shall be authorized, in the following manner, to act on Receiving Party's behalf in obtaining and managing Company's gas transportation services.

1.) Agent Shipper shall be authorized to negotiate and execute gas transportation service agreement(s) with Company for the delivery of gas from various Receipt Points to the Delivery Point(s) specified above on behalf of Receiving Party. Receiving Party acknowledges and agrees that such agreement may be a Master Agreement, as defined in the Gas Transportation Tariff, that may include additional delivery points to other Receiving Parties that similarly have designated Agent Shipper as their agent.

2.) Receiving Party acknowledges and agrees that, in order for Agent Shipper to carry out its responsibilities hereunder, Agent Shipper shall have access to daily transportation quantities for all Delivery Points specified above. In addition, Agent Shipper shall be authorized to obtain from Company information pertaining to Receiving Party's historical natural gas utilization at the Delivery Point(s) specified above.

3.) Agent Shipper shall nominate to Company, on Receiving Party's behalf for each of the Delivery Point(s) specified above, and otherwise schedule gas to meet Receiving Party's daily volume requirements and to resolve any and all gas transportation imbalances in accordance with the Company's Gas Transportation Terms and Conditions on file and in effect from time to time with the Commission. Agent Shipper authorizes the following personnel from its organization to make binding nominations for this purpose.

Name:	*Title:*	*Phone Number:*
Aaron Rice	*Scheduler*	*720-556-7836*
Brandon Figge	*Marketer*	*712-898-2522*

4.) Agent Shipper shall be authorized to approve, install and maintain phone lines or any associated equipment necessary for gas transportation service to the Receiving Party.

5.) Agent Shipper shall continue to act for Receiving Party in securing gas transportation services for so long as this Agency Agreement and the underlying gas transportation service agreement remains in effect. Gas transportation service may be terminated by either Agent Shipper or Receiving Party in accordance with the Termination provisions of the applicable Rate Schedule in Company's tariff. This Agency Agreement may be terminated by Receiving Party, effective upon the first day of any Month that Receiving Party is to commence receiving gas transportation service under a different Master Agreement or new gas transportation service agreement, by providing written notice to Agent Shipper and Company by the fourth Business Day preceding such effective date. This Agency Agreement may be terminated by Agent Shipper or Receiving Party by providing the other party and Company thirty (30) days' advance written notice to be effective upon the first day of the calendar month immediately following such thirty (30) day notice period. A shorter notice period and/or alternative effective date may be accepted by Company upon mutual agreement of Company, Agent Shipper and Receiving Party. Agent Shipper and Receiving Party acknowledge and agree that this Agency Agreement may also be revoked by Company or the underlying gas transportation service agreement between Company and Agent Shipper may be suspended or terminated by Company in accordance with the terms and conditions of Company's Gas Transportation Tariff. Any termination of gas transportation service shall be in accordance with and subject to the Company Gas Transportation Terms and Conditions on file and in effect with the Colorado Public Utilities Commission. Regardless of termination, Receiving Party shall continue to honor any commitments made by Agent Shipper to Company on its behalf for the period that the agency was in effect. Any imbalances attributable to Receiving Party upon revocation or termination of this Agency Agreement, or suspension or termination of the gas transportation service agreement between Company and Agent Shipper, shall be determined and resolved in accordance with Company's Gas Transportation Tariff.

6.) In the event the gas transportation service agreement between Agent Shipper and Company is suspended or terminated during the term of this Agency Agreement any Imbalance incurred by Agent Shipper which remains outstanding and is not resolved by Agent Shipper in accordance with Company's Gas Transportation Tariff shall be allocated on a *pro rata* basis to all Receiving Parties for which Agent Shipper was authorized through an Agency Agreement to aggregate Imbalances, based upon the total usage quantities of such

Receiving Parties during the period in which such Imbalance arose. In the event any invoiced amounts due by Agent Shipper for charges, cashouts or penalties incurred as a result of Agent Shipper's responsibilities hereunder remain unpaid, such outstanding charges and penalties shall be allocated to the Receiving Parties on the same *pro rata* basis as provided herein for allocating Imbalance quantities.

7.) Upon execution of said transportation agreement(s) by Agent Shipper for Receiving Party, Receiving Party shall be bound by the terms and conditions thereof as if Receiving Party had signed said agreement(s) directly as to the Delivery Point(s) specified above. After executing gas transportation agreement(s) for Receiving Party, Agent Shipper shall pay all applicable charges incurred for the benefit of Receiving Party in accordance with the Rules and Regulations for Natural Gas Service and the Gas Transportation Terms and Conditions on file and in effect from time to time with the Commission, including any charges for imbalance cashouts or any natural gas sold by Company thereunder.

8.) All obligations of Agent Shipper and Receiving Party to Company herein with respect to gas transportation service provided by Company shall survive termination of this Agency Agreement.

9.) This Agency Agreement shall become effective as of July 1, 2017.

This Agency Agreement is made and entered into this 24th day of April, 2017.

SIGNED:

______________________	______________________
(Receiving Party)	(Agent Shipper)
______________________	Karen L Simpson
(print name)	(print name)
Title: ______________________	Title: VP of Operations

Facility Name	Load Pt #	Address	City	Zip
SVVSD Alpine ES	0190006901	2005 Alpine St	Longmont	80501
SVVSD Burlington ES	0177203401	1051 S Pratt Pkwy	Longmont	80501
SVVSD Career Development Center	0067333101	1200 S Sunset St	Longmont	80501
SVVSD Central ES	0177277301	425 Bross St	Longmont	80501
SVVSD Clover Basin ES	0150130601	2929 Clover Basin Dr	Longmont	80503
SVVSD Columbine ES	0099900901	111 Longs Peak Ave	Longmont	80501
SVVSD Erie ES	0146833401	4137 E County Line Rd	Erie	80516
SVVSD Erie MS	0429534501	650 Main St	Erie	80516
SVVSD Heritage MS	0175647601	233 E Mountain View Ave	Longmont	80501
SVVSD Hygiene ES	0154907601	11968 N 75th Ave	Longmont	80503
SVVSD Loma Linda ES	0190935201	333 E Mountain View Ave	Longmont	80501
SVVSD Longmont Estates ES	0087932001	1601 Northwestern Rd	Longmont	80501
SVVSD Longmont HS	0116987501	1040 Sunset St	Longmont	80501
SVVSD Longs Peak MS	0072677601	1500 W 14th Ave	Longmont	80501
SVVSD Lyons HS	0110540301	100 2nd Ave	Lyons	80540
SVVSD Mead MS	0067539901	620 Welker Ave	Mead	80542
SVVSD Mead ES	0069294001	520 Welker Ave	Mead	80542
SVVSD Mountain View ES	0132887101	1415 14th Ave	Longmont	80501
SVVSD Niwot HS	0067435101	8989 E Niwot Rd	Niwot	80544
SVVSD Niwot ES	0078411401	8778 Morton Rd	Niwot	80544
SVVSD Northridge ES	0117295601	1200 19th Ave	Longmont	80501
SVVSD Sanborn ES	0103994101	2235 N Vivian St	Longmont	80501
SVVSD Silver Creek HS	0142955101	4901 Nelson Rd	Longmont	80503
SVVSD Skyline HS	0115976901	600 E Mountain View Ave	Longmont	80501
SVVSD Sunset MS	0117533901	1300 S Sunset St	Longmont	80501
SVVSD Trail Ridge MS	0099483501	1000 Button Rock Dr	Longmont	80501
SVVSD Westview MS	0184980401	1651 Airport Rd	Longmont	80503
SVVSD Fall River ES	0143534901	1400 Deerwood Dr	Longmont	80516
SVVSD Indian Peaks ES	0072369801	1335 S Judson St	Longmont	80501
SVVSD Rocky Mountain ES	0116402901	800 E 5th Ave	Longmont	80501

EXHIBIT A
TRANSACTION CONFIRMATION

Date: April 24, 2017

This Transaction Confirmation is made a part of and is subject to all terms and conditions set forth in the Natural Gas Sales Agreement effective April 24, 2017 and by and between **ST VRAIN VALLEY SCHOOL DISTRICT** ("Buyer") and **NTHERM, LLC** ("Seller") (the "Agreement").

Term – July 1, 2017 through June 30, 2019.

Price - The price shall be the Inside FERC's Gas Market Report, Prices of Spot Gas Delivered to Pipelines, "Rockies/Northwest, CIG, Rockies" Plus $0.04/Dth for all volumes, plus all applicable Utility transportation charges and fuel, plus all applicable taxes. In the event that an Index on which the Index Price is based is eliminated or a price is not reported in such Index then Seller will use a commercially reasonable substitute Index or pricing mechanism. Any or all Index volumes may be converted to Fixed Price or Option Related volumes upon the mutual agreement of Buyer and Seller.

Tax Status - If Buyer is Tax Exempt, Buyer will forward all necessary Tax Exempt documentation to Seller via fax, email or mail within 30 days of the Effective Date of this Transaction Confirmation. If Buyer's Tax Exempt status changes during the course of this agreement, Buyer is responsible to provide Seller with all necessary documentation of Tax Exemption.

Quantity - All gas shall be sold on a base load full requirement basis. Gas will be delivered on a uniform basis throughout the month.

Delivery Point – Any PSCO City Gate. (If a pooling point is used, list a specific geographic and pipeline location).

Type of Service – The delivery will be firm.

Operational Flow Order/Critical Notice - Should an Operational Flow Order or Critical Notice be in effect, Seller will attempt to increase Buyer's nomination up to their expected peak usage. The incremental volumes associated with the nomination increase will be priced at our actual cost of gas plus all applicable transportation costs or the price shall not exceed the highest posted price of the "common" range in *Gas Daily* for Cheyenne Hub. This gas shall be considered first thru the meter.

Billing and Payment - Buyer shall pay the amounts invoiced within thirty (30) days of the date on which the invoice is issued subject to terms and conditions specified on the invoice and in the Natural Gas Sales Agreement.

In the event of Early Termination by Buyer, the balance of this agreement and any subsequent Transaction Confirmations will be immediately cashed out at the then current market prices as determined by Seller. Any balances owed to Seller after Buyer is cashed out will be paid to Seller in accordance with payment terms and conditions specified in this agreement and the Natural Gas Sales Agreement.

Execution of this document constitutes an agreement whereby Seller agrees to sell and Buyer agrees to purchase and pay for certain quantities of Gas pursuant to the terms and conditions herein and of the Agreement. The undersigned hereby warrant that each is a duly authorized representative capable of binding its respective party to the terms and conditions herein and of the Agreement.

The terms of this Transaction Confirmation are binding unless disputed in writing within two (2) business days of receipt unless otherwise specified in the Base Contract. This Transaction Confirmation will not bind or be enforceable against Seller unless and until signed by an authorized representative of Seller.

Buyer	Seller
ST VRAIN VALLEY SCHOOL DISTRICT	NTHERM, LLC
Signature:____________________	Signature: ____________________
By:____________________	By:____________________
Title:____________________	Title:____________________
Date:____________________	Date:____________________

EXHIBIT B
FACILITY LOCATOR

Customer Name: St Vrain Valley School District

Utility	Facility Name	Address	City	State	Zip	Premise	Meter	Load Point
PSCO	SVVSD Alpine ES	2005 Alpine St	Longmont	CO	80501	301900069		0190006901
PSCO	SVVSD Burlington ES	1051 S Pratt Pkwy	Longmont	CO	80501	301472034		0177203401
PSCO	SVVSD Career Development Center	1200 S Sunset St	Longmont	CO	80501	300673331		0067333101
PSCO	SVVSD Central ES	425 Bross St	Longmont	CO	80501	301772773		0177277301
PSCO	SVVSD Clover Basin ES	2929 Clover Basin Dr	Longmont	CO	80503	301501306		0150130601
PSCO	SVVSD Columbine ES	111 Longs Peak Ave	Longmont	CO	80501	300999009		0099900901
PSCO	SVVSD Erie ES	4137 E County Line Rd	Erie	CO	80516	301468334		0146833401
PSCO	SVVSD Erie MS	650 Main St	Erie	CO	80516	304295345		0429534501
PSCO	SVVSD Heritage MS	233 E Mountain View Ave	Longmont	CO	80501	301756476		0175647601
PSCO	SVVSD Hygiene ES	11968 N 75th Ave	Longmont	CO	80503	301549076		0154907601
PSCO	SVVSD Loma Linda ES	333 E Mountain View Ave	Longmont	CO	80501	301909352		0190935201
PSCO	SVVSD Longmont Estates ES	1601 Northwestern Rd	Longmont	CO	80501	300879320		0087932001
PSCO	SVVSD Longmont HS	1040 Sunset St	Longmont	CO	80501	301169875		0116987501
PSCO	SVVSD Longs Peak MS	1500 W 14th Ave	Longmont	CO	80501	300726776		0072677601
PSCO	SVVSD Lyons HS	100 2nd Ave	Lyons	CO	80540	301105403		0110540301
PSCO	SVVSD Mead MS	620 Welker Ave	Mead	CO	80542	300675399		0067539901
PSCO	SVVSD Mead ES	520 Welker Ave	Mead	CO	80542	300692940		0069294001
PSCO	SVVSD Mountain View ES	1415 14th Ave	Longmont	CO	80501	301328871		0132887101
PSCO	SVVSD Niwot HS	8989 E Niwot Rd	Niwot	CO	80544	300674351		0067435101
PSCO	SVVSD Niwot ES	8778 Morton Rd	Niwot	CO	80544	300784114		0078411401
PSCO	SVVSD Northridge ES	1200 19th Ave	Longmont	CO	80501	301172956		0117295601
PSCO	SVVSD Sanborn ES	2235 N Vivian St	Longmont	CO	80501	301039941		0103994101
PSCO	SVVSD Silver Creek HS	4901 Nelson Rd	Longmont	CO	80503	301429551		0142955101
PSCO	SVVSD Skyline HS	600 E Mountain View Ave	Longmont	CO	80501	301159769		0115976901
PSCO	SVVSD Sunset MS	1300 S Sunset St	Longmont	CO	80501	301175339		0117533901
PSCO	SVVSD Trail Ridge MS	1000 Button Rock Dr	Longmont	CO	80501	300994835		0099483501
PSCO	SVVSD Westview MS	1651 Airport Rd	Longmont	CO	80503	301849804		0184980401
PSCO	SVVSD Fall River ES	1400 Deerwood Dr	Longmont	CO	80516	301435349		0143534901
PSCO	SVVSD Indian Peaks ES	1335 S Judson St	Longmont	CO	80501	300723698		0072369801
PSCO	SVVSD Rocky Mountain ES	800 E 5th Ave	Longmont	CO	80501	301164029		0116402901

NTHERM, LLC
NATURAL GAS SALES AGREEMENT

These General Terms & Conditions are entered into between **ST VRAIN VALLEY SCHOOL DISTRICT** ("Buyer") and **NTHERM, LLC** ("Seller") as of April 24, 2017 ("Effective Date"). Each of Buyer and Seller may be referred to hereafter as a "Party" or collectively as the "Parties". This Natural Gas Sales Agreement with all executed Transaction Confirmations together form a single, integrated agreement and shall be referred to as the "Agreement".

NOTICES: All written notices, confirmations and other correspondence relating to this Agreement shall go to:

Buyer: St Vrain Valley School District	**Seller: nTherm, LLC**
Notices/Confirmations Contact: Brian Lamer	**Notices/Confirmations Contact: Karen L Simpson**
Address: 395 S Pratt Parkway	**Address: 3773 Cherry Creek N Dr, Suite 575**
City/State/Zip: Longmont, CO 80501	**City/State/Zip: Denver, CO 80209**
Phone: 303-682-7405	**Phone: 719-285-5155**
Fax:	**Fax: 303-845-9609**
Email: lamer_brian@svvsd.org	**Email: ksimpson@ntherm.com**
Invoices Contact: Eileen Finleon	**Invoices: David Vastine**
Address: 395 S Pratt Parkway	**Address: 3773 Cherry Creek N Dr, Suite 575**
City/State/Zip: Longmont, CO 80501	**City/State/Zip: Denver, CO 80209**
Phone: 303-682-7220- ext 57220	**Phone:**
Fax: 303-682-7343	**Fax: 303-845-9609**
Email: finleon_eileen@svvsd.org	**Email: dvastine@ntherm.com**
	Bank: Wells Fargo
	Account Number:9068352856
	Wire: 121000248
	ACH: 102000076

1. Obligations - Transactions shall be confirmed by a transaction confirmation in the form of the Exhibit A attached hereto (the "Transaction Confirmation") that will specify the commercial terms of the transaction. Following execution by both parties, the Transaction Confirmation shall be effective and be subject to the Natural Gas Sales Agreement. In the event of a conflict between the General Terms and Conditions and the terms of a Transaction Confirmation, the terms of the Transaction Confirmation shall govern.

2. Term - This Natural Gas Sales Agreement shall commence on the Effective Date and shall automatically renew in one year increments unless cancelled by either party with at least 60 days written notice prior to the first of the month. If any Transaction Confirmation remains in effect at the time of termination, then such termination will not become effective until the expiration of the Transaction Confirmation(s).

3. Point of Delivery - Gas sold hereunder shall be delivered to Buyer for Buyer's account at the delivery point identified in the Transaction Confirmation (the "Delivery Point"). Seller shall be responsible and pay for transporting the Gas to the Delivery Point, and Buyer shall be responsible and pay for transporting the

Gas from the Delivery Point. Title to, possession and risk of loss of all Gas shall pass at the Delivery Point to Buyer. At and after the Delivery Point, Buyer shall be responsible for all fees and expenses imposed on or related to Gas delivered hereunder.

4. Performance Obligation - Seller will sell and Buyer will purchase hereunder Gas in quantities equal to Buyer's Gas requirements for each Buyer facility specified in a Transaction Confirmation during the term of such Transaction Confirmation. Buyer shall pay all penalties, cashouts and other charges that are caused by or result from variances between volumes nominated for a Buyer facility in a Transaction Confirmation and volumes consumed by such facility. If such charges are paid by Seller, then Buyer will promptly reimburse, indemnify and hold Seller harmless for such charges.

5. Measurement and Quality of Gas - All gas shall be measured by metering equipment owned and maintained by Buyer's utility. Buyer's utility tariff, as it may be changed from time to time, will determine the quality requirements, units of measurement, and all other delivery specifications with respect to the gas delivered hereunder.

6. Change in Law - If any change in law occurs and results in new or modified fees, costs of performance, or other charges being incurred by Seller, all such incremental amounts may be allocated and billed to Buyer as an adjustment to the price listed in the Transaction Confirmation.

7. Taxes - Seller shall be responsible for payment of, all taxes with respect to the Gas delivered and/or this Agreement that arise prior to the Delivery Point. Buyer will be responsible for payment of all taxes with respect to the Gas delivered and/or this Agreement at and after the Delivery Point. Buyer agrees to indemnify and hold harmless Seller from any tax payments made on behalf of Buyer on tax exemptions.

8. Billing and Payment - All payments by Buyer shall be made in accordance with payment methods as specified on the invoice and any subsequent Transaction Confirmation. In the event Buyer disputes the amount payable in any invoice, Buyer shall pay all invoiced amounts and Seller will credit any overpayment to Buyer in a subsequent invoice following the resolution of the dispute. In the event Buyer fails to pay full amount due Seller, interest on the remaining balance will accrue at a rate of 1.5% per month, or the maximum allowable rate by law, whichever is more. Interest will accrue until the unpaid balance is paid.

9. Credit Requirements - If Seller has reasonable grounds for insecurity regarding the performance of any obligation under this agreement, Buyer will provide Seller written information in order for Seller to evaluate Buyer's creditworthiness. Seller may require adequate assurance from Buyer to perform any obligation under this Agreement. If Buyer fails to provide adequate assurance as determined by Seller within 3 business days from the date assurance is demanded, then Seller may along with other legal remedies, terminate or suspend deliveries to Buyer which may result in the Buyer being returned back to the utility for as such amount of time as specified by the Buyer's Utility Tariff.

10. Force Majeure - Upon delivery of reasonably specific written notice of its inability to perform, the notifying Party shall not be liable to the other Party for any failure to perform any provision or obligation of this Agreement (except Buyer's obligations to pay for Gas delivered) if such failure is caused by or results from Force Majeure. "Force Majeure" means any cause beyond the reasonable control of the Party failing to perform that could not have been prevented or avoided through that Party's exercise of reasonable diligence, including, but not limited to, any act of God; federal, state, or other Law: fires, freezes, floods, storms, inclement weather or other similar occurrences such as strikes, war, interruption or curtailment of firm transportation or storage, lockouts, riots, terrorism, or sabotage. The notifying party shall use reasonable efforts within its control to eliminate or remedy the disabling cause and restore performance. During any periods that Seller suspends deliveries due to Force Majeure, Buyer may purchase its gas from Buyer's utility. Once the period of suspension ends, Buyer will resume purchases from Seller.

11. Warranties and Representations - Each Party warrants and represents to the other on the Effective Date and upon executing any Transaction Confirmation that: (1) it is duly organized, validly operating and in good standing under the laws of the jurisdiction of its formation; (2) it is authorized and qualified to do business in the jurisdictions necessary to perform under this Agreement; (3) that each person who executes

this Agreement on behalf of it has full and complete authority to do so and has the capacity to independently evaluate this Agreement and all subsequent transactions, and the relevant markets (including the appropriateness or suitability thereof) and has made its own decision to enter into this Agreement and each transaction; (4) there is no material event or other agreement which would impair its right, authority or ability to execute this Agreement or any Transaction Confirmation; and (5) it is entering into this Agreement and each transaction with a full understanding of all of the risks (economic and otherwise), and it is capable of assuming and willing to assume those risks.

12. Limitation of Liability - The parties confirm that the express remedies and measures of damages provided in this Agreement satisfy its essential purposes. If no remedy is expressly provided the obligator's liability will be limited to direct and actual damages. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY, WHETHER TORT, NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, WARRANTY, INDEMNITY OR OTHERWISE, NEITHER PARTY SHALL BE LIABLE FOR, AND LOSSES SHALL NOT INCLUDE, ANY DAMAGES OTHER THAN ACTUAL AND DIRECT DAMAGES, AND EACH PARTY EXPRESSLY WAIVES ANY RIGHT TO CLAIM ANY OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL, SPECIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES.**

13. Confidentiality - Seller shall not disclose the terms of this Agreement to any third party (other than to its affiliates and its affiliates' employees, lenders, counsel, consultants, accountants, advisors, or prospective purchasers with a need to know such information and who have agreed to keep such information confidential) except as required by applicable law or as necessary to perform its obligations under this Agreement.

14. Governing Law; Venue and Jurisdiction - The interpretation and performance of this Agreement shall be in accordance with the laws of the State of Colorado. The Parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts situated in the city of Denver, Colorado. The Parties hereby irrevocably and unconditionally waive, to the fullest extent they may legally and effectively do so, any objection which they may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby in the state and federal courts situated in Denver, Colorado.

15. Assignment - This contract may not be assigned by Buyer without the Seller's written consent. Such consent shall not be unreasonably withheld, conditioned, or delayed.

BUYER ACKNOWLEDGES AND AGREES THAT NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT ON THE PART OF THE SELLER EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, AND SELLER SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING AND WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

Buyer	Seller
ST VRAIN VALLEY SCHOOL DISTRICT	NTHERM, LLC
Signature: ________________	Signature: ________________
By: ________________	By: ________________
Title: ________________	Title: ________________
Date: ________________	Date: ________________

3773 Cherry Creek North Drive, Suite 575
Denver, CO 80209

April 24, 2017

These special provisions are made a part of and is subject to all terms and conditions set forth in the nTherm, LLC Natural Gas Sales Agreement effective April 24, 2017 between nTherm, LLC (Seller) and ST VRAIN VALLEY SCHOOL DISTRICT (Buyer).

Section 2 Term – Change first sentence as follows:

This Natural Gas Sales Agreement shall commence on the Effective Date and parties mutually agree to renew and continue the contract or agreement consummated under this proposal for additional periods of one year at the same prices, terms and conditions with at least 30 days written notice prior to the end of the initial period or any renewal period. However, no more than three (3) yearly extensions shall be made to the original agreement per the City and County of Denver RFP No. 0366A (2016).

Section 4 – Performance Obligation

Delete entire paragraph. Transaction Confirmation is full requirements.

Section 7 – Taxes

Delete entire paragraph. City is exempt from taxes.

There are no other changes to the original natural gas sales agreement.

Buyer	Seller
ST VRAIN VALLEY SCHOOL DISTRICT	NTHERM, LLC
Signature:__________	Signature:__________
By:__________	By:__________
Title:__________	Title:__________
Date:__________	Date:__________

Email: info@ntherm.com Phone: (719) 285-5155 Fax: (303) 845-9609

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: First Reading, Adoption, Board Policy GBEE*-E-2 – Non-Staff Responsible Use of the Internet and Electronic Communications Agreement

RECOMMENDATION

For the Board of Education to adopt the minor revision of Board Policy GBEE*-E-2 – Non-Staff Responsible Use of the Internet and Electronic Communications Agreement.

BACKGROUND

This Board policy has had minor changes that administration has reviewed and approves of. Board Policy BG – School Board Policy Process states, “Approval of all regulations and exhibits shall require only a single reading and vote of the Board.”

Non-Staff Responsible Use of the Internet and Electronic Communications Agreement

Legal Name:____

(First Name, Middle Name, Last Name)

Birthdate: ____________________________ **Phone #:** _____________________________________

Building: ____________________________ **Position:** _____________________________________

Account Start Date: ___________________ **Account Termination Date:** _____________________

Account Access Requested (Please check all that apply):

All Vrain Net requests are set up in Infinite Campus with appropriate access.

- ❑ Email
- ❑ Citrix
- ❑ Phone Systems

FOR NAME CHANGE ONLY:

Former Name:____

(Previous name – as it is on email)

New Legal Name: ____

(First Name, Middle Name, Last Name)

Phone: _______________________________ **Birthdate:** _____________________________

This form must be signed and dated by the non-staff person, supervisor and a Human Resources administrator before it will be considered. By signing this application it is your responsibility to read and abide by the terms and conditions of Board Regulation GBEE*-R and all revisions.

____

Applicant Signature **Date**

____

Supervisor Signature **Date**

____

Supervisor Printed Name **Position**

____

Human Resources Signature **Date**

Adopted: March 9, 2005
Revised: April 23, 2008
Revised: May 12, 2010
Revised: December 11, 2013
Revised: June 10, 2015
Revised: November 11, 2015

St. Vrain Valley School District RE-1J, Longmont, CO

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Adoption of Fiscal Year 2018 Capital Reserve Budget

RECOMMENDATION

That the Board of Education adopt the Fiscal Year 2018 Capital Reserve allocations of $5,800,000 as presented and authorize Brian Lamer, Assistant Superintendent of Operations, to sign appropriate documents related to the disbursement of funds.

BACKGROUND

The Capital Reserve allocations presented follow the Capital Reserve Handbook that outlines the process and procedure for Capital Reserve fund allocations.

The list below, for your consideration, reflects identified recommendations presently proposed for the budget expenditures. However, as need, scope and bidding conditions change, these numbers will vary slightly.

Capital Reserve Budget 2018	Proposed
Arts/Athletics	$129,000
Maintenance/Grounds	$2,261,500
Support Services	$1,714,500
Custodial/FFE	$398,000
Transportation	$1,267,000
Environmental	$30,000
Total	**$5,800,000**

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Medicaid Contract

RECOMMENDATION

That the Board of Education approve a contract with the Department of Health Care Policy and Financing with the State of Colorado, and further authorize Greg Fieth, Chief Financial Officer, to sign all necessary documents.

BACKGROUND

This contract allows the District to be compensated for providing health services to students who are receiving Medicaid, and for providing Medicaid Administrative Activities. Within the capacity of the specific School Health Services (SHS) Program, the District can receive reimbursement in the form of federal funds only from the Department for School Health Services that are medically necessary and provided to Medicaid eligible students as prescribed in the student's Individual Education Program (IEP) or the Individualized Family Service Plan (IFSP). School Health Services may include direct medical services, including rehabilitative therapies, Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services, targeted case management (TCM) and specialized non-emergency transportation services. The District may also receive federal funding for performing Administrative Activities which include service coordination, outreach, referral, enrollment and administrative functions that support the Medicaid program.

The District has provided these services and has been compensated by the State of Colorado without a formal contract for many years. This year, the State of Colorado is formalizing the contract. The District's external legal team has reviewed the document.

STATE OF COLORADO CONTRACT

SIGNATURE AND COVER PAGE

State Agency Department of Health Care Policy and Financing	**Contract Number** 18-98232
Contractor St. Vrain Valley School District	**Contract Performance Beginning Date** July 01, 2017
Contract Maximum Amount Initial Term and Total for All State Fiscal Years Reimbursement to the Contractor under this Contract shall not exceed the State's appropriated funding and statutory authority specified for the SHS Program.	**Initial Contract Expiration Date** June 30, 2018 **Contract Description** The SHS Program provides that any school district, as defined, may contract with the State to receive federal matching funds for amounts spent in providing health services to students who are receiving Medicaid benefits and for providing Medicaid administrative activities.

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.

CONTRACTOR St. Vrain Valley School District ______________________________ By: Name & Title of Person Signing for Contractor Date: ____________________	**STATE OF COLORADO** John W. Hickenlooper, Governor Department of Health Care Policy and Financing Susan E. Birch, MBA, BSN, RN Executive Director ______________________________ By: Susan E. Birch, MBA, BSN, RN Executive Director Date: ____________________
	LEGAL REVIEW Cynthia H. Coffman, Attorney General By: ______________________________ Assistant Attorney General Date: ____________________

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

By: ____________________________________
Greg Tanner, Controller: Department of Health Care Policy and Financing

Effective Date: ____________________

TABLE OF CONTENTS

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" or "HCPF" or the "Department"). 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

The State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to Exhibit D. Except as stated in **§2.D**, the total duration of this Contract, including the exercise of any options to extend, shall not exceed 5 years from its Effective Date absent prior approval from the State Purchasing Director in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in **§16,** 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 the Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. This subsection shall not apply to a termination of this Contract by the State for breach by Contractor, which shall be governed by **§14.A.i.**

i. Method and Content

The State shall notify Contractor of such termination in accordance with **§16.** 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 **§14.A.i.a**.

iii. Payments

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

3. AUTHORITY

Authority to enter into this Contract exists in C.R.S. 25.5-1-101 et. seq., and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

4. PURPOSE

The School Health Services (SHS) Program is set forth in §25.5-5-318, et seq., CRS, and the State's regulations found in the Code of Colorado Regulations (CCR) at 10 CCR 2505-10, 8.290, et seq., as they now exist or may hereafter be amended. The SHS Program provides that any school district, as defined, may contract with the State to receive federal matching funds for amounts spent in providing health services to students who are receiving Medicaid benefits and for providing Medicaid administrative activities. The Contractor wishes to participate in the SHS Program, subject to the terms and conditions of this Contract.

The School Health Services (SHS) Program administered by the Department of Health Care Policy and Financing (the Department) allows Colorado public school districts, Boards of Cooperative Educational Services (BOCES), and the Colorado School for the Deaf and the Blind to access federal Medicaid funds for delivering School Health Services to eligible clients and performing Administrative Activities.

The SHS Program was created in 1997 with the passage of Senate Bill (SB) 97-101 to fund the provision of medical health services to Medicaid-eligible, uninsured and underinsured students in Districts throughout the state. Within the capacity of the specific SHS Program, Districts can receive reimbursement in the form of federal funds only from the Department for School Health Services that are medically necessary and provided to Medicaid eligible clients as prescribed in the client's Individual Education Program (IEP) or the Individualized Family Service Plan (IFSP). School Health Services may include direct medical services, including rehabilitative therapies, Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services, targeted case management (TCM) and specialized non-emergency transportation services. Districts may also receive federal funding for performing Administrative Activities which include service coordination, outreach, referral, enrollment and administrative functions that support the Medicaid program.

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. "**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.

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

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

E. **"End of Term Extension"** means the time period defined in **§2.D**

F. **“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.

G. “**Exhibits**” means the following exhibits attached to this Contract:

i. **EXHIBIT A:** HIPAA Business Associates Addendum

ii. **EXHIBIT B:** Statement of Work

iii. **EXHIBIT C:** Sample Option Letter

H. **“Extension Term”** means the time period defined in **§2.C**

I. “**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.

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

K. **“Initial Term”** means the time period defined in **§2.B**

L. “**Party**” means the State or Contractor, and “Parties” means both the State and Contractor.

M. “**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.

N. “**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.

O. “**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.

P. “**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.

Q. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, and State personnel records not subject to disclosure under CORA.

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

S. **"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.

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

U. **"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.

V. "**Subcontractor**" means third-parties, if any, engaged by Contractor to aid in performance of the Work.

W. "**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.

X. "**Work**" means the delivery of the Goods and performance of the Services described in this Contract.

Y. "**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 Exhibit B. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

7. PAYMENTS TO CONTRACTOR

A. Maximum Amount

Reimbursement to the Contractor under this Contract shall not exceed the State's appropriated funding and statutory authority specified for the SHS Program; and the liability of the State, at any time, for such payments shall be limited to the unexpended amount remaining of such funds.

B. Payment Procedures

i. Invoices and Payment

a. The State shall pay Contractor as earned in accordance with the Department's regulations under the provisions of the SHS Program, in whole or in part, as described in 10 CCR 2505-10, 8.290, et seq., and as determined by the State from available funds.

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

ii. Interest

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

iii. Payment Disputes

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

iv. Available Funds-Contingency-Termination

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

v. Erroneous Payments

The State may 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. The State may recover such payments 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.

8. 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 **§16**.

9. 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 6 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.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Contractor shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Contractor for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure. Contractor shall not, without prior written approval of the State, use for Contractor's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Contract. 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 nondisclosure agreements at least as protective as this Contract, and that the nondisclosure agreements 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 agreements to the State upon request.

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.

11. 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.

12. 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. All insurance policies required by this Contract shall be issued by insurance companies with an AM Best rating of A-VIII or better.

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

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. 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.

D. 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.

E. 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 **§16** within 7 days of Contractor's receipt of such notice.

F. 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.

G. Public Entities

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

H. 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 **§12**.

13. 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 **§14** for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in the Contract in order to protect the public interest of the State.

14. 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 **§13.B.,** shall have all of the remedies listed in this **§14.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 the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

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

d. 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 a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, as approved by the State, **(a)** secure that right to use such Work for the State or Contractor; **(b)** replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, **(c)** remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in **§13.B** and the dispute resolution process in **§15**, shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in **§15.A** fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the purchasing director of the Department of Health Care Policy and Financing for resolution in accordance with the provisions of §§24-109-101, 24-109-106, 24-109-107, and 24-109-201 through 24-109-206 C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the purchasing director, 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.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered **(i)** by hand with receipt required, **(ii)** by certified or registered mail to such Party's principal representative at the address set forth below or **(iii)** as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this **§16** without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

For the State:

Shannon Huska, School Health / Primary Care Fund Unit Lead

Department of Health Care Policy and Financing

1570 Grant Street
Denver, Colorado 80203

shannon.huska@hcpf.state.co.us

For Contractor:

Laurie Woodruff, Medicaid Coordinator

St. Vrain Valley School District

395 South Pratt Parkway
Longmont, CO 80501

woodruff_laurie@svvsd.org

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Contractor assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. 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. The Parties intend the Work Product to be works 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.

18. 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.

19. 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. Binding Effect

Except as otherwise provided in **§19.A.**, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

C. 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.

D. 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.

E. 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.

F. 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.

G. Jurisdiction and Venue

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.

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 promulgated 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 attachments such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

i. Exhibit A, HIPAA Business Associate Addendum

ii. Colorado Special Provisions in **§21** of the main body of this Contract.

iii. The provisions of the other sections of the main body of this Contract.

iv. Exhibit B, Statement of Work.

v. Exhibit C, Sample Option Letter.

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 the Contract.

L. Survival of Certain Contract Terms

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

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 Colorado 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.

N. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.B.,** this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

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 §24-103.5-101 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 **§10** 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 **§10**.

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 Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

20. ADDITIONAL GENERAL PROVISIONS

A. Compliance with Applicable Law

The Contractor shall at all times during the execution of this Contract strictly adhere to, and comply with, all applicable federal and state laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this Contract. The Contractor shall also require compliance with these statutes and regulations in subcontracts and subgrants permitted under this contract. The federal laws and regulations include:

Age Discrimination Act of 1975, as amended	42 U.S.C. 6101, et seq.
Age Discrimination in Employment Act of 1967	29 U.S.C. 621-634
Americans with Disabilities Act of 1990 (ADA)	42 U.S.C. 12101, et seq.
Clean Air Act	42 U.S.C. 7401, et seq.
Equal Employment Opportunity	E.O. 11246, as amended by E.O. 11375, amending E.O. 11246 and as supplemented by 41 C.F.R. Part 60
Equal Pay Act of 1963	29 U.S.C. 206(d)
Federal Water Pollution Control Act, as amended	33 U.S.C. 1251, et seq.
Immigration Reform and Control Act of 1986	8 U.S.C. 1324b
Section 504 and 508 of the Rehabilitation Act of 1973, as amended	29 U.S.C. 794
Title VI of the Civil Rights Act of 1964, as amended	42 U.S.C. 2000d, et seq.
Title VII of the Civil Rights Act of 1964	42 U.S.C. 2000e
Title IX of the Education Amendments of 1972, as amended	20 U.S.C. 1681

State laws include:

Civil Rights Division	Section 24-34-301, CRS, *et seq.*

The Contractor also shall comply with any and all laws and regulations prohibiting discrimination in the specific program(s) which is/are the subject of this Contract. In consideration of and for the purpose of obtaining any and all federal and/or state financial assistance, the Contractor makes the following assurances, upon which the State relies.

i. The Contractor will not discriminate against any person on the basis of race, color, national origin, age, sex, religion or handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions, in performance of Work under this Contract.

ii. At all times during the performance of this Contract, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by the Contractor, or be subjected to any discrimination by the Contractor.

The Contractor shall take all necessary affirmative steps, as required by 45 C.F.R. 92.36(e), Colorado Executive Order and Procurement Rules, to assure that small and minority businesses and women's business enterprises are used, when possible, as sources of supplies, equipment, construction, and services purchased under this Contract.

B. Federal Audit Provisions

Office of Management and Budget (OMB) Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, defines audit requirements under the Single Audit Act of 1996 (Public Law 104-156). All state and local governments and non-profit organizations expending $500,000.00 or more from all sources (direct or from pass-through entities) are required to comply with the provisions of Circular No. A-133. The Circular also requires pass-through entities to monitor the activities of subrecipients and ensure that subrecipients meet the audit requirements. To identify its pass-through responsibilities, the State of Colorado requires all subrecipients to notify the State when expected or actual expenditures of federal assistance from all sources equal or exceed $500,000.00.

C. Debarment and Suspension

iii. If this is a covered transaction or the Contract amount exceeds $100,000.00, the Contractor certifies to the best of its knowledge and belief that it and its principals and Subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency.

iv. This certification is a material representation of fact upon which reliance was placed when the State determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available at law or by contract, the State may terminate this Contract for default.

v. The Contractor shall provide immediate written notice to the State if it has been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency.

vi. The terms "covered transaction," "debarment," "suspension," "ineligible," "lower tier covered transaction," "principal," and "voluntarily excluded," as used in this paragraph, have the meanings set out in 2 C.F.R. Parts 180 and 376.

vii. The Contractor agrees that it will include this certification in all lower tier covered transactions and subcontracts that exceed $100,000.00.

D. Force Majeure

Neither the Contractor nor the State shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this Contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure." As used in this Contract, “force majeure” means acts of God; acts of the public enemy; acts of the state and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather.

E. Disputes

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff designated by the State and a senior manager designated by the Contractor. Failing resolution at that level, disputes shall be presented in writing to the Executive Director of the State and the Contractor’s Chief Executive Officer for resolution. This process is not intended to supersede any other process for the resolution of controversies provided by law.

F. Lobbying

Contractor certifies, to the best of his or her knowledge and belief, that:

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

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

x. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Contracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of the certification is a requisite for making or entering into transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000.00 and not more than $100,000.00 for each such failure.

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21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)

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

A. **CONTROLLER'S 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.

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.**

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, of the Colorado Governmental Immunity Act, §24-10-101 *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

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 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. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. 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 shall **(i)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(ii)** provide proof thereof when requested by the State, and **(iii)** be solely responsible for its acts and those of its employees and agents.

E. **COMPLIANCE WITH LAW.**

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

F. **CHOICE OF LAW.**

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. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

G. **BINDING ARBITRATION PROHIBITED.**

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

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

State or other public funds payable under this 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. §§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.

K. **PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq. C.R.S.**

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor **(i)** shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the

Subcontractor and the contracting State agency within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101 *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

L. **PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq*., C.R.S.**

Contractor, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101 *et seq*., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

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HIPAA BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("Addendum") is part of the Contract between the State of Colorado, Department of Health Care Policy and Financing and the Contractor. For purposes of this Addendum, the State is referred to as "Department", "Covered Entity" or "CE" and the Contractor is referred to as "Associate". Unless the context clearly requires a distinction between the Contract document and this Addendum, all references herein to "the Contract" or "this Contract" include this Addendum.

RECITALS

A. CE wishes to disclose certain information to Associate pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).

B. CE and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to this Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §1320d – 1320d-8 ("HIPAA") as amended by the American Recovery and Reinvestment Act of 2009 ("ARRA")/HITECH Act (P.L. 111-005), and its implementing regulations promulgated by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160, 162 and 164 (the "HIPAA Rules") and other applicable laws, as amended.

C. As part of the HIPAA Rules, the CE is required to enter into a contract containing specific requirements with Associate prior to the disclosure of PHI, 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 contained in this Addendum.

The parties agree as follows:

1. <u>Definitions.</u>

a. Except as otherwise defined herein, capitalized terms in this Addendum shall have the definitions set forth in the HIPAA Rules at 45 C.F.R. Parts 160, 162 and 164, as amended. In the event of any conflict between the mandatory provisions of the HIPAA Rules and the provisions of this Contract, the HIPAA Rules shall control. Where the provisions of this Contract differ from those mandated by the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Contract shall control.

b. <u>"Protected Health Information" or "PHI"</u> means 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, and shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.501.

c. <u>"Protected Information"</u> shall mean PHI provided by CE to Associate or created, received, maintained or transmitted by Associate on CE's behalf. To the extent Associate is a covered entity under HIPAA and creates or obtains its own PHI for treatment, payment and health care operations, Protected Information under this Contract does not include any PHI created or obtained by Associate as a covered entity and Associate shall follow its own policies and procedures for accounting, access and amendment of Associate's PHI.

d. <u>"Subcontractor"</u> shall mean a third party to whom Associate delegates a function, activity, or service that involves CE's Protected Information, in order to carry out the responsibilities of this Agreement.

2. <u>Obligations of Associate.</u>

a. Permitted Uses. Associate shall not use Protected Information except for the purpose of performing Associate's obligations under this Contract and as permitted under this Addendum. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the HIPAA Rules if so used by CE, except that Associate may use Protected Information: (i) for the proper management and administration of Associate; (ii) to carry out the legal responsibilities of Associate; or (iii) for Data Aggregation purposes for the Health Care Operations of CE. Additional provisions, if any, governing permitted uses of Protected Information are set forth in Attachment A to this Addendum. Associate agrees to defend and indemnify the Department against third party claims arising from Associate's breach of this Addendum.

b. <u>Permitted Disclosures</u>. Associate shall not disclose Protected Information in any manner that would constitute a violation of the HIPAA Rules if disclosed by CE, except that Associate may disclose Protected Information: (i) in a manner permitted pursuant to this Contract; (ii) for the proper management and administration of Associate; (iii) as required by law; (iv) for Data Aggregation purposes for the Health Care Operations of CE; or (v) to report violations of law to appropriate federal or state authorities, consistent with 45 C.F.R. Section 164.502(j)(1). To the extent that Associate discloses Protected Information to a third party Subcontractor, Associate must obtain, prior to making any such disclosure: (i) reasonable assurances through execution of a written agreement with such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party; and that such third party will notify Associate within five (5) business days of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach. Additional provisions, if any, governing permitted disclosures of Protected Information are set forth in Attachment A.

c. <u>Appropriate Safeguards</u>. Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Contract. Associate shall comply with the requirements of the HIPAA Security Rule, at 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316. Associate shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate's operations and the nature and scope of its activities. Associate shall review, modify, and update documentation of its safeguards as needed to ensure continued provision of reasonable and appropriate protection of Protected Information.

d. Reporting of Improper Use or Disclosure. Associate shall report to CE in writing any use or disclosure of Protected Information other than as provided for by this Contract within five (5) business days of becoming aware of such use or disclosure.

e. Associate's Agents. If Associate uses one or more Subcontractors or agents to provide services under the Contract, and such Subcontractors or agents receive or have access to Protected Information, each Subcontractor or agent shall sign an agreement with Associate containing substantially the same provisions as this Addendum and further identifying CE as a third party beneficiary with rights of enforcement and indemnification from such Subcontractors or agents in the event of any violation of such Subcontractor or agent agreement. The agreement between the Associate and Subcontractor or agent shall ensure that the Subcontractor or agent agrees to at least the same restrictions and conditions that apply to Associate with respect to such Protected Information. Associate shall implement and maintain sanctions against agents and Subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

f. Access to Protected Information. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate shall make Protected Information maintained by Associate or its agents or Subcontractors in such Designated Record Sets available to CE for inspection and copying within ten (10) business days of a request by CE to enable CE to fulfill its obligations to permit individual access to PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.524. If such Protected Information is maintained by Associate in an electronic form or format, Associate must make such Protected Information available to CE in a mutually agreed upon electronic form or format.

g. Amendment of PHI. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate or its agents or Subcontractors shall make such Protected Information available to CE for amendment within ten (10) business days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, and shall incorporate any such amendment to enable CE to fulfill its obligations with respect to requests by individuals to amend their PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or Subcontractors, Associate must notify CE in writing within five (5) business days of receipt of the request. Any denial of amendment of Protected Information maintained by Associate or its agents or Subcontractors shall be the responsibility of CE.

h. Accounting Rights. Associate and its agents or Subcontractors shall make available to CE, within ten (10) business days of notice by CE, the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.528. In the event that the request for an accounting is delivered directly to Associate or its agents or Subcontractors, Associate shall within five (5) business days of the receipt of the request, forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. Associate shall not disclose any Protected Information except as set forth in Section 2(b) of this Addendum.

i. Governmental Access to Records. Associate shall keep records and make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary"), in a time and manner designated by the Secretary, for purposes of determining CE's or Associate's compliance with the HIPAA Rules. Associate shall provide to CE a copy of any Protected Information that Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary when the Secretary is investigating CE. Associate shall cooperate with the Secretary if the Secretary undertakes an investigation or compliance review of Associate's policies, procedures or practices to determine whether Associate is complying with the HIPAA Rules, and permit access by the Secretary during normal business hours to its facilities, books, records, accounts, and other sources of information, including Protected Information, that are pertinent to ascertaining compliance.

j. Minimum Necessary. Associate (and its agents or Subcontractors) shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure, in accordance with the Minimum Necessary requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. Sections 164.502(b) and 164.514(d).

k. Data Ownership. Associate acknowledges that Associate has no ownership rights with respect to the Protected Information.

l. Retention of Protected Information. Except upon termination of the Contract as provided in Section 4(c) of this Addendum, Associate and its Subcontractors or agents shall retain all Protected Information throughout the term of this Contract and shall continue to maintain the information required under Section 2(h) of this Addendum for a period of six (6) years.

m. Associate's Insurance. Associate shall maintain insurance to cover loss of PHI data and claims based upon alleged violations of privacy rights through improper use or disclosure of PHI. All such policies shall meet or exceed the minimum insurance requirements of the Contract (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status and notice of cancellation).

n. Notification of Breach. During the term of this Contract, Associate shall notify CE within five (5) business days of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of Protected Information and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall not initiate notification to affected individuals per the HIPAA Rules without prior notification and approval of CE. Information provided to CE shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during the breach. Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

o. Audits, Inspection and Enforcement. Within ten (10) business days of a written request by CE, Associate and its agents or Subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether Associate has complied with this Addendum; provided, however, that: (i) Associate and CE shall mutually agree in advance upon the scope, timing and location of such an inspection; and (ii) CE shall protect the confidentiality of all confidential and proprietary information of Associate to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract.

p. Safeguards During Transmission. Associate shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted to CE pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

q. Restrictions and Confidential Communications. Within ten (10) business days of notice by CE of a restriction upon uses or disclosures or request for confidential communications pursuant to 45 C.F.R. Section 164.522, Associate will restrict the use or disclosure of an individual's Protected Information. Associate will not respond directly to an individual's requests to restrict the use or disclosure of Protected Information or to send all communication of Protected Information to an alternate address. Associate will refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to Associate.

3. Obligations of CE.

a. Safeguards During Transmission. CE shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to this Contract, in accordance with the standards and requirements of the HIPAA Rules.

b. Notice of Changes. CE maintains a copy of its Notice of Privacy Practices on its website. CE shall provide Associate with any changes in, or revocation of, permission to use or disclose Protected Information, to the extent that it may affect Associate's permitted or required uses or disclosures. To the extent that it may affect Associate's permitted use or disclosure of PHI, CE shall notify Associate of any restriction on the use or disclosure of Protected Information that CE has agreed to in accordance with 45 C.F.R. Section 164.522.

4. Termination.

a. Material Breach. In addition to any other provisions in the Contract regarding breach, a breach by Associate of any provision of this Addendum, as determined by CE, shall constitute a material breach of this Contract and shall provide grounds for immediate termination of this Contract by CE pursuant to the provisions of the Contract covering termination for cause, if any. If the Contract contains no express provisions regarding termination for cause, the following terms and conditions shall apply:

(1) Default. If Associate refuses or fails to timely perform any of the provisions of this Contract, CE may notify Associate in writing of the non-performance, and if not promptly corrected within the time specified, CE may terminate this Contract. Associate shall continue performance of this Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.

(2) Associate's Duties. Notwithstanding termination of this Contract, and subject to any directions from CE, Associate shall take timely, reasonable and necessary action to protect and preserve property in the possession of Associate in which CE has an interest.

b. Reasonable Steps to Cure Breach. If CE knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum or another arrangement, then CE shall take reasonable steps to cure such breach or end such violation. If CE's efforts to cure such breach or end such violation are unsuccessful, CE shall terminate the Contract, if feasible. If Associate knows of a pattern of activity or practice of a Subcontractor or agent that constitutes a material breach or violation of the Subcontractor's or agent's obligations under the written agreement between Associate and the Subcontractor or agent, Associate shall take reasonable steps to cure such breach or end such violation, if feasible.

c. Effect of Termination.

(1) Except as provided in paragraph (2) of this subsection, upon termination of this Contract, for any reason, Associate shall return or destroy all Protected Information that Associate or its agents or Subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If Associate elects to destroy the Protected Information, Associate shall certify in writing to CE that such Protected Information has been destroyed.

(2) If Associate believes that returning or destroying the Protected Information is not feasible, Associate shall promptly provide CE notice of the conditions making return or destruction infeasible. Associate shall continue to extend the protections of Sections 2(a), 2(b), 2(c), 2(d) and 2(e) of this Addendum to such Protected Information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

5. Injunctive Relief. CE shall have the right to injunctive and other equitable and legal relief against Associate or any of its Subcontractors or agents in the event of any use or disclosure of Protected Information in violation of this Contract or applicable law.

6. No Waiver of Immunity. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq*. or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq*. as applicable, as now in effect or hereafter amended.

7. Limitation of Liability. Any limitation of Associate's liability in the Contract shall be inapplicable to the terms and conditions of this Addendum.

8. Disclaimer. CE makes no warranty or representation that compliance by Associate with this Contract or the HIPAA Rules will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.

9. Certification. To the extent that CE determines an examination is necessary in order to comply with CE's legal obligations pursuant to the HIPAA Rules relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense, examine Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which Associate's security safeguards comply with the HIPAA Rules or this Addendum.

10. Amendment.

a. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of the HIPAA Rules and other applicable laws relating to the confidentiality, integrity, availability and security of PHI. The parties understand and agree that CE must receive satisfactory written assurance from Associate that Associate will adequately safeguard all Protected Information and that it is Associate's responsibility to receive satisfactory written assurances from Associate's Subcontractors and agents. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of the HIPAA Rules or other applicable laws. CE may terminate this Contract upon thirty (30) days written notice in the event (i) Associate does not promptly enter into negotiations to amend this Contract when requested by CE pursuant to this Section, or (ii) Associate does not enter into an amendment to this Contract providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of the HIPAA Rules.

b. Amendment of Attachment A. Attachment A may be modified or amended by mutual agreement of the parties in writing from time to time without formal amendment of this Addendum.

11. Assistance in Litigation or Administrative Proceedings. Associate shall make itself, and any Subcontractors, employees or agents assisting Associate in the performance of its obligations under the Contract, available to CE, at no cost to CE, up to a maximum of thirty (30) hours, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of the HIPAA Rules or other laws relating to security and privacy or PHI, in which the actions of Associate are at issue, except where Associate or its Subcontractor, employee or agent is a named adverse party.

12. No Third Party Beneficiaries. Nothing express or implied in this Contract is intended to confer, nor shall anything herein confer, upon any person other than CE, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

13. Interpretation and Order of Precedence. The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. Together, the Contract and this Addendum shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules. The parties agree that any ambiguity in this Contract shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. This Contract supersedes and replaces any previous separately executed HIPAA addendum between the parties.

14. Survival of Certain Contract Terms. Notwithstanding anything herein to the contrary, Associate's obligations under Section 4(c) ("Effect of Termination") and Section 12 ("No Third Party Beneficiaries") shall survive termination of this Contract and shall be enforceable by CE as provided herein in the event of such failure to perform or comply by the Associate. This Addendum shall remain in effect during the term of the Contract including any extensions.

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ATTACHMENT A

This Attachment sets forth additional terms to the HIPAA Business Associate Addendum, which is part of the Contract between the State of Colorado, Department of Health Care Policy and Financing and the Contractor and is effective as of the date of the Contract (the "Attachment Effective Date"). This Attachment may be amended from time to time as provided in Section 10(b) of the Addendum.

1. Additional Permitted Uses. In addition to those purposes set forth in Section 2(a) of the Addendum, Associate may use Protected Information as follows:

No Additional Permitted Uses

2. Additional Permitted Disclosures. In addition to those purposes set forth in Section 2(b) of the Addendum, Associate may disclose Protected Information as follows:

No additional permitted disclosures

3. Subcontractor(s). The parties acknowledge that the following subcontractors or agents of Associate shall receive Protected Information in the course of assisting Associate in the performance of its obligations under this Contract:

No subcontractors

4. Receipt. Associate's receipt of Protected Information pursuant to this Contract shall be deemed to occur as follows and Associate's obligations under the Addendum shall commence with respect to such Protected Information upon such receipt:

Upon receipt of PHI from the Department

5. Additional Restrictions on Use of Data. CE is a Business Associate of certain other Covered Entities and, pursuant to such obligations of CE, Associate shall comply with the following restrictions on the use and disclosure of Protected Information:

No additional restrictions on Use of Data

6. Additional Terms. This may include specifications for disclosure format, method of transmission, use of an intermediary, use of digital signatures or PKI, authentication, additional security or privacy specifications, de-identification/re-identification of data, etc.

No additional terms

EXHIBIT B, STATEMENT OF WORK

1. TERMINOLOGY

1.1. In addition to the terms defined in **§5** of this Contract, acronyms and abbreviations are defined at their first occurrence in this Exhibit A, Statement of Work. The following list of terms shall be construed and interpreted as follows:

1.1.1. Administrative Activities - Service coordination, outreach, referral, enrollment and administrative functions that support the Medicaid program and are provided by qualified personnel under the employment of the Contractor.

1.1.2. Business Interruption - 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.

1.1.3. Claims - A submission to the Department through the Medicaid Management Information System (MMIS) by an enrolled Colorado Medical Assistance Program provider on a Department prescribed form for Medicaid services rendered.

1.1.4. Closeout Period - The period beginning on the earlier of 90 days prior to the end of the last Extension Term or notice by the Department of its decision to not exercise its option for an Extension Term, and ending on the day that the Department has accepted the final deliverable for the Closeout Period.

1.1.5. CPI-U - The Consumer Price Index for All Urban Consumers published by the US Department of Labor, Bureau of Labor Statistics.

1.1.6. Deliverable - any tangible or intangible object produced by Contractor as a result of the work that is intended to be delivered to the Department, regardless of whether the object is specifically described or called out as a "Deliverable" or not.

1.1.7. Disaster - 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.

1.1.8. District - Any Board of Cooperative Educational Services established pursuant to Article 5 of Title 22, C.R.S., any state educational institution that serves students in kindergarten through twelfth grade, and any public school district organized under the laws of Colorado, except as a Junior College district.

1.1.9. HIPAA - The Health Insurance Portability and Accountability Act of 1996.

1.1.10. Key Personnel - The position or positions that are specifically designated as such in this Contract.

1.1.11. Member - Any individual enrolled in the Colorado Medicaid program, Colorado's CHP+ program or the Colorado Indigent Care Program, as determined by the Department.

1.1.12. Operational Start Date - When the Department authorizes Contractor to begin fulfilling its obligations under the Contract.

1.1.13. Other Personnel - Individuals and Subcontractors, in addition to Key Personnel, assigned to positions to complete tasks associated with the Work.

1.1.14. PHI - Protected Health Information.

1.1.15. Provider - Any health care professional or entity that has been accepted as a provider in the Colorado Medicaid program, Colorado's CHP+ program or the Colorado Indigent Care Program, as determined by the Department.

1.1.16. School Health Services - Medical or health-related assistance provided to a client, by qualified personnel or qualified health care professionals under the employment of the Contractor; which is required for the diagnosis, treatment, or care of a physical or mental disorder and is recommended by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law.

1.1.17. Moment - a randomly selected date and time assigned to a randomly selected staff of the Contractor participating in the random moment time study.

2. CONTRACTOR'S GENERAL REQUIREMENTS

2.1. The Department will contract with only one (1) organization, the Contractor, and will work solely with that organization with respect to all tasks and deliverables to be completed, services to be rendered and performance standards to be met under the Contract.

2.2. The Contractor may be privy to internal policy discussions, contractual issues, price negotiations, confidential medical information, Department financial information, and advance knowledge of legislation. In addition to all other confidentiality requirements of the Contract, the Contractor shall also consider and treat any such information as confidential and shall only disclose it in accordance with the terms of the Contract.

2.3. Contractor shall work cooperatively with Department staff and, if applicable, the staff of other State contractors to ensure the completion of the Work. The Department may, in its sole discretion, use other contractors to perform activities related to the Work that are not contained in the Contract or to perform any of the Department's responsibilities. In the event of a conflict between Contractor and any other State contractor, the Department will resolve the conflict and Contractor shall abide by the resolution provided by the Department.

2.4. Deliverables

2.4.1. All Deliverables shall meet Department-approved format and content requirements. The Department will specify the number of copies and media for each Deliverable.

2.4.2. Each Deliverable will follow the Deliverable submission process as follows:

2.4.2.1. Contractor shall submit each Deliverable to the Department for review and approval.

2.4.2.2. The Department will review the Deliverable and may direct Contractor to make changes to the Deliverable. Contractor shall make all changes within 5 Business Days following the Department's direction to make the change unless the Department provides a longer period in writing.

2.4.2.2.1. Changes the Department may direct include, but are not limited to, modifying portions of the Deliverable, requiring new pages or portions of the Deliverable, requiring resubmission of the Deliverable or requiring inclusion of information or components that were left out of the Deliverable.

2.4.2.2.2. The Department may also direct Contractor to provide clarification or provide a walkthrough of any Deliverable to assist the Department in its review. Contractor shall provide the clarification or walkthrough as directed by the Department.

2.4.2.3. Once the Department has received an acceptable version of the Deliverable, including all changes directed by the Department, the Department will notify Contractor of its acceptance of the Deliverable in writing. A Deliverable shall not be deemed accepted prior to the Department's notice to Contractor of its acceptance of that Deliverable.

2.4.3. Contractor shall employ an internal quality control process to ensure that all Deliverables are complete, accurate, easy to understand and of high quality. Contractor shall provide Deliverables that, at a minimum, are responsive to the specific requirements for that Deliverable, organized into a logical order, contain accurate spelling and grammar, are formatted uniformly, and contain accurate information and correct calculations. Contractor shall retain all draft and marked-up documents and checklists utilized in reviewing Deliverables for reference as directed by the Department.

2.4.4. If any due date for a Deliverable 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 Department.

2.4.5. All due dates or timelines that reference a period of days, months or quarters shall be measured in calendar days, months and quarters unless specifically stated as being measured in Business Days or otherwise. All times stated in the Contract shall be considered to be in Mountain Time, adjusted for Daylight Saving Time as appropriate, unless specifically stated otherwise.

2.4.6. No Deliverable, report, data, procedure or system created by Contractor for the Department that is necessary to fulfilling Contractor's responsibilities under the Contract, as determined by the Department, shall be considered proprietary.

2.4.7. If any Deliverable contains ongoing responsibilities or requirements for Contractor, such as Deliverables that are plans, policies or procedures, then Contractor shall comply with all requirements of the most recently approved version of that Deliverable. Contractor shall not implement any version of any such Deliverable prior to receipt of the Department's written approval of that version of that Deliverable. Once a version of any Deliverable described in this subsection is approved by the Department, all requirements, milestones and other Deliverables contained within that Deliverable shall be considered to be requirements, milestones and Deliverables of this Contract.

2.4.7.1. Any Deliverable described as an update of another Deliverable shall be considered a version of the original Deliverable for the purposes of this subsection.

2.5. Stated Deliverables and Performance Standards

2.5.1. Any section within this Statement of Work headed with or including the term "DELIVERABLE" or "PERFORMANCE STANDARD" is intended to highlight a Deliverable or performance standard contained in this Statement of Work and provide a clear due date for the Deliverables. The sections with these headings are for ease of reference not intended to expand or limit the requirements or responsibilities related to any Deliverable or performance standard, except to provide the due date for the Deliverables.

2.6. Communication Requirements

2.6.1. Communication with the Department

2.6.1.1. The Contractor shall enable all Contractor staff to exchange documents and electronic files with the Department staff in formats compatible with the Department's systems. The Department currently uses Microsoft Office 2013 and/or Microsoft Office 365 for PC. If the Contractor uses a compatible program that is not the system used by the Department, then the Contractor shall ensure that all documents or files delivered to the Department are completely transferrable and reviewable, without error, on the Department's systems.

2.6.2. The Contractor shall not engage in any non-routine communication with any Member, any Provider, the media or the public without the prior written consent of the Department.

2.7. Performance Reviews

2.7.1. The Department may conduct performance reviews or evaluations of the Contractor in relation to the Work performed under the Contract.

2.7.2. The Department may work with the Contractor in the completion of any performance reviews or evaluations or the Department may complete any or all performance reviews or evaluations independently, at the Department's sole discretion.

2.7.3. The Contractor shall provide all information necessary for the Department to complete all performance reviews or evaluations, as determined by the Department, upon the Department's request. The Contractor shall provide this information regardless of whether the Department decides to work with the Contractor on any aspect of the performance review or evaluation.

2.7.4. The Department may conduct these performance reviews or evaluations at any point during the term of the Contract, or after termination of the Contract for any reason.

2.7.5. The Department may make the results of any performance reviews or evaluations available to the public, or may publicly post the results of any performance reviews or evaluations.

2.8. Renewal Options and Extensions

2.8.1. The Department may, within its sole discretion, choose to not exercise any renewal option in the Contract for any reason. If the Department chooses to not exercise an option, it may reprocure the performance of the Work in its sole discretion.

2.8.2. The Parties may amend the Contract to extend beyond five (5) years, in accordance with the Colorado Procurement Code and its implementing rules, in the event that the Department determines the extension is necessary to align the Contract with other Department contracts, to address State or Federal programmatic or policy changes related to the Contract or to provide sufficient time to transition the Work.

2.9. State System Access

2.9.1. If Contractor requires access to any State computer system to complete the Work, Contractor shall have and maintain all hardware, software and interfaces necessary to access the system without requiring any modification to the State's system. Contractor shall follow all State policies, processes and procedures necessary to gain access to the State's systems.

3. CONTRACTOR PERSONNEL

3.1. Personnel General Requirements

3.1.1.1. Contractor shall update this list upon the Department's request to account for changes in the individuals assigned to the Contract.

3.1.1.1.1. DELIVERABLE: Updated list of individuals assigned to the Contract

3.1.1.1.2. DUE: Within 5 Business Days following the State's request for an update

3.2. Personnel Availability

3.2.1. Contractor shall ensure Key Personnel and Other Personnel assigned to the Contract are available for meetings with the Department during the Department's normal business hours, as determined by the Department. Contractor shall also make these personnel available outside of the Department's normal business hours and on weekends with prior notice from the Department.

3.2.2. Contractor's Key Personnel and Other Personnel shall be available for all regularly scheduled meetings between Contractor and the Department, unless the Department has granted prior, written approval otherwise.

3.2.3. Contractor shall ensure that the Key Personnel and Other Personnel attending all meetings between the Department and Contractor have the authority to represent and commit Contractor regarding work planning, problem resolution and program development.

3.2.4. At the Department's direction, the Contractor shall make its Key Personnel and Other Personnel available to attend meetings as subject matter experts with stakeholders both within the State government and external or private stakeholders.

3.2.5. All of Contractor's Key Personnel and Other Personnel that attend any meeting with the Department or other Department stakeholders shall be physically present at the location of the meeting, unless the Department gives prior, written permission to attend by telephone or video conference. If Contractor has any personnel attend by telephone or video conference, Contractor shall provide all additional equipment necessary for attendance, including any virtual meeting space or telephone conference lines.

3.2.5.1. The Contractor shall respond to all telephone calls, voicemails and emails from the Department within one (1) Business Day of receipt by the Contractor.

3.3. Key Personnel

3.3.1. Contractor shall designate people to hold the following Key Personnel positions:

3.3.1.1. Program Lead

3.3.1.1.1. The Program Lead shall be determined by the school designee.

3.3.1.1.2. The Program Lead shall be responsible for all of the following:

3.3.1.1.2.1. Serving as Contractor's primary point of contact for the Department.

3.3.1.1.2.2. 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.

3.3.1.1.2.3. Overseeing all other Key Personnel and Other Personnel and ensuring proper staffing levels throughout the term of the Contract.

3.4. Other Personnel Responsibilities

3.4.1. Contractor shall use its discretion to determine the number of Other Personnel necessary to perform the Work in accordance with the requirements of this Contract. If the Department has determined that Contractor has not provided sufficient Other Personnel to perform the Work in accordance with the requirements of this Contract, Contractor shall provide all additional Other Personnel necessary to perform the Work in accordance with the requirements of this Contract at no additional cost to the Department.

3.4.2. Contractor shall ensure that all Other Personnel have sufficient training and experience to complete all portions of the Work assigned to them. Contractor shall provide all necessary training to its Other Personnel, except for Department-provided training specifically described in this Contract.

4. APPLICABLE LAWS AND RULES

4.1. Contractor shall abide by all applicable federal and state laws and rules, including, but not limited to, the provisions of CRS §25.5-5-318, et seq., and the Department's regulations set forth in 10 CCR 2505-10, 8.290, et seq., as they now exist or may hereafter be amended.

4.2. Contractor shall abide by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Regulations set forth in 45 C.F.R Parts 160 and 164. As a Medicaid provider, the Contractor shall implement and maintain appropriate policies, procedures and mechanisms to protect the privacy and security of protected health information maintained or transmitted.

5. PROGRAM GUIDELINES

5.1. Contractor shall abide by all terms and provisions in the "School Health Services (SHS) Program Manual", as published and amended by the Department from time to time, unless the Department grants a written waiver of specific terms and provisions. Waivers must be granted or renewed by the Department each State fiscal year.

6. SCHOOL HEALTH SERVICES

6.1. The Contractor shall provide School Health Services as set forth in 10 CCR 2505-10, 8.290, et seq., to Medicaid eligible clients as prescribed in the client's IEP or the IFSP. If the Contractor chooses to provide Administrative Activities they shall agree to the rules and regulations set forth in 10 CCR 2505-10, 8.290, et seq.

7. MANDATORY TIME STUDY

7.1. Contractor shall participate in a time study to assure appropriate utilization of medically necessary School Health Services and Administrative Activities.

7.1.1. The Contractor shall participate in all quarters of the time study for School Health Services as determined by the Department.

7.2. If the Contractor elects to participate in Administrative Activities, the Contractor shall participate in the time study per individual quarter as determined by the Department.

7.3. The Contractor shall maintain documentation supporting the Random Moment Time Study (RMTS) results to include, at the minimum, all of the following:

7.3.1. Cost pool roster lists of the Contractor's eligible staff and associated job categories.

7.3.2. Staff provider qualifications including licensure.

7.3.3. Registration or certification documents.

7.3.4. All financial data or information used to develop Claims or a cost report.

7.3.5. A copy of the completed cost report.

7.4. The Contractor shall participate in the RMTS. The Contractor shall respond to the time study Moment within the timeframe approved by CMS.

7.5. The Contractor shall maintain an eight-five (85%) percent or higher compliance rate for time study responses attributed to their staff as set forth in the Colorado School Health Services Program Time Study Implementation Guide.

8. PROVIDER QUALIFICATIONS

8.1. The Contractor shall ensure that all staff providing School Health Services employed by the Contractor are qualified by state or national licensure, registration or certification as a qualified health care professional or qualified personnel as specified in 10 CCR 2505-10, 8.290, et seq., and that all licensures, registrations or certifications for staff providing School Health Services are current.

8.1.1. Upon request by the Department or its duly authorized agent, the Contractor shall provide documentation of all of the Contractor's staff qualifications, including all licensures, registrations and certifications.

8.1.1.1. DELIVERABLE: Staff Licenses, Registrations and Certifications

8.1.1.2. DUE: Within five (5) Business Days after the Department's request

9. REIMBURSEMENT

9.1. Interim Payments and Claims

9.2. The Contractor shall submit Claims for School Health Services in the prescribed form and manner required by the Department as set forth in 10 CCR 2505-10, §8.040.2 and the SHS Program Manual.

9.2.1. The Contractor shall ensure that claims are made within timely filing requirements as set forth in 10 CCR 2505-10, §8.043.

9.2.2. The Department will make Interim Payments monthly based on prior years cost reports.

9.3. Cost Reports

9.3.1. The Contractor shall report financial expenditures for staff participating in the time study into a web-based system quarter they participated as well as annually the Contractor participated in.

9.3.2. The Contractor shall complete the reporting in a Department approved format within the Department designated timeframe. The reported information shall be generated into a cost report form by the Department.

9.3.3. The Contractor shall ensure the following information is reported, but is not limited to, the following:

9.3.3.1. Staff payroll costs and benefits.

9.3.3.2. Staff training and travel costs.

9.3.3.3. Medically related supplies and materials costs.

9.3.3.4. Costs covered by Federal revenues.

9.3.3.5. Statistical information related to student count and the Medicaid eligibility rate.

9.3.3.6. Transportation costs and statistical information for Medicaid related transportation.

9.3.4. The Contractor shall certify, through the certification of public expenditure statement included in the cost report, its total costs and that the Contractor has available sufficient monies that do not contain federal funds equal to the certification of public expenditure in accordance with the provisions of CRS §25.5-5-318, et seq.

9.3.5. If the certification of public expenditure statement is not signed and submitted by the Contractor with the cost report, the Department is authorized to withhold payment or recover any funds, reimbursement and interim payments paid to the Contractor for the associated period covered under the cost report.

9.4. Cost Reconciliation and Final Payment

9.4.1. The Contractor shall be reimbursed by the Department, with retroactive adjustment, in such amounts as may from time to time be set by the Department pursuant to 10 CCR 2505-10, 8.290, et seq.

9.4.2. The Department will send Contractor notification of the provider payments and other reimbursement available through the SHS Program. The Department will send to Contractor, without prior notice, notification of any changes in the provider payment, other reimbursement or State's appropriated funding and statutory authority specified for the SHS Program.

9.4.2.1. All reimbursements or payments to the Contractor shall be federal funds and the Contractor shall not receive any State funds under this Contract

9.5. The Contractor's total cost and reimbursement pursuant to this Contract for providing School Health Services and Administrative Activities shall be calculated using a cost report form and format as prescribed by the Department subject to 10 CCR 2505-10, 8.290, et seq., and as determined by the Department from available federal funds. Contractor shall receive interim payments through Claims for School Health Services based on a formula established by the Department in accordance 10 CCR 2505-10, 8.290, et seq.

9.6. The Contractor shall return to the Department any interim payments that exceeds the Contractor's total cost for providing School Health Services under this Contract.

9.6.1. The Department may withhold up to ten (10%) percent of the federal funds to cover the State's administration costs in accordance with the provisions of CRS §25.5-5-318, et seq. Contractor shall receive a cost reconciliation and settlement letter from the Department that identifies the final payment.

9.6.1.1. In the event the Contractor should receive reimbursement for services in an amount in excess of that authorized by this Contract, the Contractor agrees to permit the Department the option and discretion to recover the overpayment through one or more of the following options:

9.6.1.1.1. Require the Contractor to make repayment to the Department of said excess payment within sixty (60) days of written demand by the Department;

9.6.1.1.2. Deduct the amount from future payments; or

9.6.1.1.3. Recover such excessive payments by other legal means.

9.7. Disallowance

9.8. The Contractor shall participate in any disallowances by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services of reimbursements to the Contractor or transfers/contributions made by the Contractor.

9.9. The Contractor shall assist the Department in documenting the correctness of the cost report, a Claim or any other payment received from the Department.

9.9.1. If the disallowance is upheld, the Contractor shall return to the Department any portion of the reimbursement based on the disallowed funds. If the Contractor fails to participate under this provision for any reason, the Department shall have the right, in addition to those remedies set out in the remedies section of this Contract, to withhold future payment and/or have the right to terminate this contract due to default/cause.

9.10. Additional Records and Documentation

9.10.1. Maintenance of Records

9.10.1.1. The Contractor shall maintain records which fully disclose the extent of School Health Services provided to clients under the SHS Program, in accordance with 10 CCR 2505-10, §8.130.2. The medical care records shall include, but not be limited to, documentation that services billed to Medicaid and provided to or on behalf of a client under the SHS Program are:

9.10.1.1.1. Medically necessary;

9.10.1.1.2. Consistent with the diagnosis and plan of treatment for the client's condition; and

9.10.1.1.3. Consistent with professionally recognized standards of care.

9.11. Authorized Signer

9.11.1. The Contractor shall submit with this Contract written evidence of the authority of the authorized signer for the Contractor. This may be in the form of copies of corporate by laws, a resolution of Contractor's board of directors, or other sufficient evidence. Such authority must expressly empower the authorized signer to legally bind Contractor to all of the terms and conditions contained herein, and must also expressly delegate to such person the authority to represent Contractor in all future negotiations with the Department.

10. COOPERATION

10.1. The Contractor shall give full cooperation to the Department and its duly authorized agents in the administration of the SHS Program.

10.2. The Department or its duly authorized agent shall perform annual reviews of the RMTS, cost report, and Claims. At the discretion of the Department the Contractor shall participate in the review and provide requested documents. If the reviews determine a training need, the Contractor shall attend and participate in the training required by the Department.

11. CLOSEOUT PERIODS

11.1. This Contract shall have a Closeout Period.

11.2. Closeout Period

11.2.1. During the Closeout Period, Contractor shall complete all of the following:

11.2.1.1. Provide to the State, or any other contractor at the Department's direction, all reports, data, systems, Deliverables and other information reasonably necessary for a transition as determined by the Department.

11.2.1.2. Ensure that all responsibilities under the Contract have been transferred to the Department, or to another contractor at the Department's direction, without significant interruption.

11.2.1.3. Notify any Subcontractors of the termination of the Contract, as directed by the Department.

11.2.1.4. Continue meeting each requirement of the Contract until the Department determines that specific requirement is being performed by the Department or another contractor, whichever is sooner. The Department will determine when any specific requirement is being performed by the Department or another contractor, and will notify Contractor of this determination for that requirement.

11.2.2. The Closeout Period may extend past the termination of the Contract. The Department 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.

12. COMPENSATION AND INVOICING

12.1. Compensation

12.1.1. The Contractor will receive monthly interim payments as specified in the interim rate letter.

12.1.2. The Contractor will receive final cost settlement payments by April 1st of each year following the close of the fiscal year as deemed necessary when comparing interim payments to final allowable costs.

12.2. Closeout Payments

12.2.1. Notwithstanding anything to the contrary in this Contract, all payments for the final month of this Contract shall be paid to Contractor no sooner than 10 days after the Department has determined that Contractor has completed all of the requirements of the Closeout Period.

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EXHIBIT C, SAMPLE OPTION LETTER

Contract Routing Number YY-XXXXX

OPTION LETTER

Date:	Original Contract Routing # CMS #	Option Letter #	Contract Routing #

1) **OPTIONS:** Choose all applicable options listed in §1 and in §2 and delete the rest.
   - **a.** Option to renew only *(for an additional term)*
   - **b.** Change in the amount of goods within current term
   - **c.** Change in amount of goods in conjunction with renewal for additional term
   - **d.** Level of service change within current term
   - **e.** Level of service change in conjunction with renewal for additional term
   - **f.** Option to initiate next phase of a contract

2) **REQUIRED PROVISIONS**. All Option Letters shall contain the appropriate provisions set forth below:
   - **a.** **<u>For use with Options 1(a-e):</u>** In accordance with Section(s) of the Original Contract between the State of Colorado, Department of Health Care Policy and Financing **,** and Contractor's Name, the State hereby exercises its option for an additional term beginning Insert start date and ending on Insert ending date at a cost/price specified in Section , AND/OR an increase/decrease in the amount of goods/services at the same rate(s) as specified in Identify the Section, Schedule, Attachment, Exhibit etc.
   - **b.** **<u>For use with Option 1(f), please use the following:</u>** In accordance with Section(s) of the Original Contract between the State of Colorado, Department of Health Care Policy and Financing **,** and Contractor's Name, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc for the term beginning Insert start date and ending on Insert ending date at the cost/price specified in Section .
   - **c.** **<u>For use with all Options 1(a-f):</u>** The amount of the current Fiscal Year contract value is increased/decreased by $ amount of change to a new contract value of Insert New $ Amt to as consideration for services/goods ordered under the contract for the current fiscal year indicate Fiscal Year. The first sentence in Section is hereby modified accordingly. The total contract value including all previous amendments, option letters, etc. is Insert New $ Amt.

3) **Effective Date**. The effective date of this Option Letter is upon approval of the State Controller or , whichever is later.

STATE OF COLORADO
John W. Hickenlooper, GOVERNOR
Department of Health Care Policy and Financing

____
By: Name & Title of Person Signing for Agency or IHE

Date: _________________________

<u>ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER</u>
CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: ____________________________________
Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval
Date: ___________________

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: Approval of Request to Grant Exception to Staff Ethics/Conflict of Interest-Board Policy GBEA

RECOMMENDATION

That the Board of Education allow an exception to the current Staff Ethics/Conflict of Interest, Board Policy GBEA. This exception would enable Heather Rogers, a District employee, to market her face painting services to the Community Schools Program.

BACKGROUND

Board Policy GBEA, Staff Ethics/Conflict of Interest, states, "No school district employee or firm owned by a school district employee shall be allowed to sell to the district or its schools or staff goods or services of any kind without express prior written consent of the Board of Education."

Heather Rogers is employed by the District as a Custodial Supervisor. She also runs a face painting business, “See Life as a Muse”. Her services would be offered through Community Schools as a vendor.

Since Ms. Rogers is an employee and she owns her business, she is requesting a waiver from Board Policy GBEA so she can continue to offer these services through Community Schools within the St. Vrain Valley School District.

The administration recommends approval of this exception.

MEMORANDUM

DATE: May 10, 2017

TO: Board of Education

FROM: Dr. Don Haddad, Superintendent of Schools

SUBJECT: First Reading, Discussion, New Board Policies JRCB* -- Student Information Privacy and Protection; and JRCB*-R -- Student Information Privacy and Protection (Public Hearing and Complaint Procedures)

PURPOSE

To introduce to the Board of Education new Board Policies JRCB* -- Student Information Privacy and Protection; and JRCB*-R -- Student Information Privacy and Protection (Public Hearing and Complaint Procedures).

BACKGROUND

New laws requiring what Board policies a school district must provide have mandated these two new Board policies. They are necessary due to alignment with current practice, procedure, and applicable statutes and have been reviewed by the administration and legal counsel.

Student Information Privacy and Protection

The Board is committed to protecting the confidentiality of student data obtained, created and/or maintained by the district. The Board directs district staff to manage its student data privacy, protection and security obligations in accordance with this policy and applicable law.

The scope of this Board policy is limited to a "school service", as such term is defined in the Colorado Student Data Transparency and Security Act (Act) and this policy.

Definitions

"Local administrator" means the lead administrator for a specific location, department, or area of responsibility such as a school principal, department executive director, or area superintendent.

"School Service" means an internet website, online service, online application, or mobile application that:

a) Is designed and marketed primarily for use in a preschool, elementary school, or secondary school;

b) Is used at the direction of teachers or other employees of a local education provider; and

c) Collects, maintains, or uses student personally identifiable information.

A school service does not include an internet website, online service, online application, or mobile application that is designed and marketed for use by individuals or entities generally, even if it is also marketed to a United States preschool, elementary school or secondary school.

"School service contract provider" or "contract provider" means an entity, other than a public education entity or an institution of higher education, which enters into a formal, negotiated contract with a public education entity to provide a school service.

"School service on-demand provider" or "on-demand provider" means an entity, other than a public education entity, that provides a school service on occasion to a public education entity, subject to agreement by the public education entity, or an employee of the public education entity, to standard, non-negotiable terms and conditions of service established by the providing entity.

"Student personally identifiable information" or "student PII" means information that, alone or in combination, personally identifies an individual student or the student's parent or family, and that is collected, maintained, generated, or inferred by the district, either directly or through a school service, or by a school service contract provider or school service on-demand provider.

"Security breach" means the unauthorized disclosure of student personally identifiable information by a third party.

Access, collection and sharing within the district

The district shall follow applicable law and Board policy in the district's access to, collection and sharing of student personally identifiable information.

District employees shall ensure that confidential student personally identifiable information is disclosed within the district only to officials who have a legitimate educational interest, in accordance with applicable law and Board policy.

Outsourcing and disclosure to third parties

District employees shall ensure that student personally identifiable information is disclosed to school service contract providers and school service on-demand providers only as authorized by applicable law and Board policy.

Any contract between the district and a school service contract provider shall include the provisions required by the Act, including provisions that require the school service contract provider to safeguard the privacy and security of student personally identifiable information and impose penalties on the school service contract provider for noncompliance with the contract.

In accordance with the Act, the district shall post the following on its website:

- A list of the school service contract providers that it contracts with and a copy of each contract; and
- To the extent practicable, a list of the school service on-demand providers that the district uses.
- A notice to on-demand services providers that, if the district ceases using or refuses to use an on-demand school service provider because the on-demand service provider does not substantially comply with its own privacy policy or does not meet the requirements specified in sections 22-16-109(2), C.R.S. and 22-16-110(1), C.R.S., the district will post on its website the name of the on-demand service provider, with any written response that the on-demand provider may submit. The district will also notify the Colorado Department of Education, which will post on its website the on-demand provider's name and any written response.

Privacy and security standards

The security of student personally identifiable information maintained by the district is a high priority. The district shall maintain an authentication and authorization process to track and periodically audit the security and safeguarding of district-maintained student personally identifiable information.

Security breach or other unauthorized disclosure

Employees who disclose student personally identifiable information in a manner inconsistent with applicable law and Board policy may be subject to disciplinary action, up to and including termination from employment. Any discipline imposed shall be in accordance with applicable law and Board policy.

Employee concerns about a possible security breach shall be reported immediately to the administrator. If the administrator is the person alleged to be responsible for the security breach, the staff member shall report the concern to the next person in line of responsibility for that specific administrator (i.e., principal to area superintendent, executive director to superintendent, etc.).

When the district determines that a school service contract provider has committed a material breach of its contract with the district, and that such material breach involves the misuse or unauthorized release of student personally identifiable information, the district shall follow this policy's accompanying regulation in addressing the material breach.

Nothing in this policy or its accompanying regulation shall prohibit or restrict the district from terminating its contract with the school service contract provider, as deemed appropriate by the district and in accordance with the contract and the Act.

Data retention and destruction

The district shall retain and destroy student personally identifiable information in accordance with applicable law and Board policy.

Staff training

The district shall provide periodic in-service trainings to appropriate district employees to inform them of their obligations under applicable law and Board policy concerning the confidentiality of student personally identifiable information.

Parent/guardian complaints

In accordance with this policy's accompanying regulation, a parent/guardian of a district student may file a written complaint with the district if the parent/guardian believes the district, school service contract provider, or school service on-demand provider has failed to comply with the Act.

Parent/guardian requests to amend student personally identifiable information

Parent/guardian requests to amend his or her child's personally identifiable information shall be in accordance with the district's procedures governing access to and amendment of student education records under FERPA, applicable state law and Board policy.

Oversight, audits and review

The chief technology officer, or his/her designee, shall be responsible for ensuring compliance with this policy and its required privacy and security standards.

The district's practices with respect to student data privacy and the implementation of this policy shall be periodically audited by the chief technology officer, or his/her designee.

A privacy and security audit shall be performed by the district on an annual basis. Such audit shall include a review of existing user access to and the security of student personally identifiable information.

The chief technology officer, or his/her designee, shall annually review this policy and accompanying regulation to ensure it remains current and adequate to protect the confidentiality of student personally identifiable information in light of advances in data technology and dissemination. The chief technology officer, or his/her designee, shall recommend revisions to this policy and/or accompanying regulation as deemed appropriate or necessary.

Compliance with governing law and Board policy

The district shall comply with FERPA and its regulations, the Act, and other state and federal laws governing the confidentiality of student personally identifiable information. The district shall be entitled to take all actions and exercise all options authorized under the law.

In the event this policy or accompanying regulation does not address a provision in applicable state or federal law, or is inconsistent with or in conflict with applicable state or federal law, the provisions of applicable state or federal law shall control.

Adopted:

LEGAL REFS.:	15 U.S.C. 6501 *et seq.* (Children's Online Privacy Protection Act)
	20 U.S.C. 1232g (Family Educational Rights and Privacy Act)
	20 U.S.C. 1232h (Protection of Pupil Rights Amendment)
	20 U.S.C. 1415 (IDEIA procedural safeguards, including parent right to access student records)
	20 U.S.C. 8025 (access to student information by military recruiters)
	34 C.F.R. 99.1 *et seq.* (FERPA regulations)
	34 C.F.R. 300.610 *et seq.* (IDEIA regulations concerning confidentiality of student education records)
	C.R.S. 19-1-303 and 304 (records and information sharing under

Colorado Children's Code)
C.R.S. 22-1-123 (district shall comply with FERPA and federal law on protection of pupil rights)
C.R.S. 22-16-101 *et seq.* (Student Data Transparency and Security Act)
C.R.S. 22-16-107 (2)(a) (policy required regarding public hearing to discuss a material breach of contract by school service contract provider)
C.R.S. 22-16-107 (4) (policy required regarding student information privacy and protection)
C.R.S. 22-16-112 (2)(a) (policy required concerning parent complaints and opportunity for hearing)
C.R.S. 24-72-204 (3)(a)(VI) (schools cannot disclose student address and phone number without consent)
C.R.S. 24-72-204 (3)(d) (information to military recruiters)
C.R.S. 24-72-204 (3)(e)(I) (certain FERPA provisions enacted into Colorado Law)
C.R.S. 24-72-204 (3)(e)(II) (disclosure by staff of information gained through personal knowledge or observation)
C.R.S. 24-80-101 *et seq*. (State Archives and Public Records Act)
C.R.S. 25.5-1-116 (confidentiality of HCPF records)

CROSS REFS.: BEDH, Public Participation at School Board Meetings
EHB, Records Retention
GBEB*, Staff Use of the Internet and Electronic Communications
JLDAC, Screening/Testing of Students (and Treatment of Mental Disorders)
JRA/JRC, Student Records/Release of Information on Students
JRCA*, Sharing of Student Records/Information between School District and State Agencies
JS*, Student Use of the Internet and Electronic Communications

Student Information Privacy and Protection
(Public Hearing and Complaint Procedures)

Contract breach by school service contract provider

Within a reasonable amount of time after the district determines that a school service contract provider has committed a material breach of its contract with the district, and that such material breach involves the misuse or unauthorized release of student personally identifiable information, the Board shall make a decision regarding whether to terminate the district's contract with the school service contract provider in accordance with the following procedure.

1. The district shall notify the school service contract provider of the basis for its determination that the school service contract provider has committed a material breach of the contract and shall inform the school service contract provider of the meeting date that the Board plans to hold a public hearing to discuss the material breach.

2. Prior to the Board meeting during which the public hearing will be held, the school service contract provider may submit a written response to the district regarding the material breach.

3. The Board shall hold the public hearing to discuss the nature of the material breach at a regular or special meeting.

4. In the public hearing, a district representative shall first be entitled to present testimony or other evidence regarding the district's findings of a material breach. The school service contract provider shall then have an opportunity to respond by presenting testimony or other evidence. If the school service contract provider is unable to attend the meeting, the Board shall consider any written response that the school service contract provider submitted to the district.

5. If members of the public wish to provide testimony in the public hearing regarding the alleged material breach, they shall be allowed to do so. Such testimony shall be received by the Board during the public hearing when the Board considers the alleged material breach. The Board shall not receive testimony at the time during which the public is invited to make general comments to the Board.

6. The Board shall decide whether to terminate the contract with the school service contract provider within 30 days of the Board meeting and shall notify the school service contract provider of its decision in writing. The Board's decision shall be final.

7. The district shall follow the requirements of the Student Data Transparency and Security Act (Act) in posting information to the district website and reporting information to the Colorado Department of Education regarding service contract

providers that commit a material breach of contract by improperly disclosing student personally identifiable information.

Parent/guardian complaints

In accordance with the accompanying policy, the parent/guardian of a district student may file a written complaint with the chief technology officer or his/her designee if the parent/guardian believes the district, school service contract provider, or school service on-demand provider has failed to comply with the Act.

1. The parent/guardian's complaint shall state with specificity each of the Act's requirements that the parent/guardian believes the district, school service contract provider, or school service on-demand provider has violated and its impact on his or her child.

2. The parent/guardian may provide evidence to the chief technology officer supporting his/her complaint in accordance with the Act.

3. The chief technology officer, or his/her designee, shall respond to the parent/guardian's written complaint within 30 calendar days of receiving the complaint.

4. Within 10 calendar days of receipt of the district's response, the parent/guardian may appeal to the Board. Such appeal must be in writing and submitted to the chief technology officer or his/her designee.

5. The Board shall review the parent's complaint and the district's response at a regular or special meeting. A district representative and the parent/guardian may provide testimony to the Board in the same manner as described in page 1, paragraph 5, but no new evidence or claims may be presented. The Board may choose to conduct the appeal in executive session to the extent permitted by law.

6. The Board shall make a determination regarding the parent/guardian's complaint that the district failed to comply with the Act within 60 days of the Board meeting. The decision of the Board shall be final.

7. This procedure shall not apply to parent/guardian concerns with his or her child's education records. If the parent/guardian files a complaint regarding his or her child's education records, the district shall follow its procedures governing access to and review of student education records, in accordance with FERPA, applicable state law and Board policy.

Governing law and Board policy

Nothing contained herein shall be interpreted to confer upon any person the right to a hearing independent of a Board policy, administrative procedure, statute, rule, regulation or agreement expressly conferring such right. The complaint and hearing procedures described in this regulation shall apply, unless the context otherwise requires and/or unless the requirements of another policy, procedure, statute, rule, regulation or agreement expressly contradicts any of these procedures, in which event the terms of the contrary policy, procedure, law, rule, regulation or agreement shall govern.

Adopted:

St. Vrain Valley School District RE-1J, Longmont, Colorado