

**TOWN OF TIMNATH, COLORADO  
RESOLUTION NO. 47, SERIES 2024**

**A RESOLUTION APPROVING THE ON-CALL CONTRACTS FOR TRAFFIC  
ENGINEERING SERVICES**

**WHEREAS**, the Town Council of the Town of Timnath (“Town”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

**WHEREAS**, the Town completed an RFP solicitation for on-call traffic engineering services and recommended award to four firms; and

**WHEREAS**, attached hereto as **Exhibit A** are the Professional Services Master Agreements for Traffic Engineering (Work Orders) with:

Next Phase Engineering, LLC;  
Muller Engineering Company, Inc;  
Kellar Engineering LLC; and  
Felsburg Holt & Ullevig Inc

**WHEREAS**, the Town Council is familiar with the Agreement and finds it to be in the best interest of the Town, its residents, and the general public.

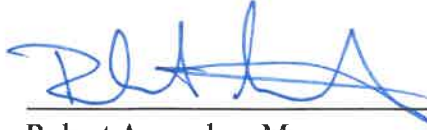
**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO AS FOLLOW:**

**Section 1. Approval**

The required agreements are hereby approved, authorized, and ratified and agreements may be entered into for Professional Services Master Agreements for Traffic Engineering (Work Orders) with Next Phase Engineering, LLC, Muller Engineering Company, Inc, Kellar Engineering LLC, and Felsburg Holt & Ullevig Inc. The required agreements may be finalized by the Town Manager, in consultation with the Public Works Director, Legal Counsel, and other applicable staff or consultant. Work Orders under these Council approved Master Agreements may be executed by Town Manager and applicable staff as long as budget is appropriated for expenditures by Council. Any actions taken prior to the execution of this Resolution, that are within the authority conferred hereby, are ratified, confirmed, and approved by the Town Council.

**INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON JUNE 11, 2024.**

TOWN OF TIMNATH, COLORADO



Robert Axmacher, Mayor

ATTEST:



Milissa Peters-Garcia, CMC  
Town Clerk



**EXHIBIT A**

**PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING  
(WORK ORDERS) WITH NEXT PHASE ENGINEERING, LLC**

This PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING SERVICES, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 11<sup>th</sup> day of June, 2024, by and between THE TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado (the “Town”), and NEXT PHASE ENGINEERING, LLC a Colorado Limited Liability Company (the “Consultant”). The Town and the Consultant are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS**

WHEREAS, the Town is a Home Rule Municipality, authorized to provide certain services within its corporate boundaries;

WHEREAS, from time to time, the Town has need of contracted professional engineering services, for purposes which may include without limitation, design, bidding and project review/management of discrete Town projects and review of development permit applications and plans; and

WHEREAS, the Consultant employs certified professional engineers and is in good standing with the Colorado Secretary of State (*see Exhibit C*); and

WHEREAS, the Town desires to engage the Consultant to render the services described in this Agreement, pursuant to Work Orders approved in writing by both parties and attached to this contract; and

WHEREAS, the Town is authorized to contract for the provision of such services pursuant to §§ 31-15-101, *et seq.*, C.R.S.;

WHEREAS, the Consultant has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**TERMS AND CONDITIONS**

1. **SCOPE OF SERVICES.** The Consultant shall provide engineering services as set forth in Work Orders approved by both parties in writing (“Work Orders”), and all of Consultant’s work under such Work Orders shall be collectively referred to as the “Services”. All Services shall be performed: (a) in a professional manner, to the satisfaction of the Town, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the Town; (b) within the time period and pursuant to the requirements of said Work Order and (c) using reasonable efforts to minimize any annoyance, interference or disruption to

the residents, tenants, occupants and invitees within the Town. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in a Work Order, the terms in the body of this Agreement shall govern. Consultant shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the Town in any manner whatsoever, except to the extent specifically provided in this Agreement (including Work Orders) or through other authorization expressly delegated to Consultant or authorized by the Town through the Town Council.

2. TERM/RENEWAL. This Agreement shall be effective as of the dated date hereof and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; (ii) one (1) year after execution of this Agreement. Notwithstanding the foregoing, unless terminated, or unless the Town determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for up to four (4) additional one-year terms commencing June 10<sup>th</sup> of the next succeeding year. Any payment obligations of the Town in years other than the year of signing are pursuant to budget and appropriation and the Town can cancel this contract without penalties in the event of non-appropriation.

3. WORK ORDERS. The Town and the Consultant may agree for the Consultant to provide specific work, subject to the mutual agreement of the Consultant and the Town pursuant to a written Work Order, in substantially the form attached hereto as **Exhibit A**, executed by an authorized representative of each Party. Work Orders shall be sequentially numbered and attached to this Agreement and automatically incorporated herein upon signature by both Parties. Each Work Order shall set forth the required date for completion or a schedule for various tasks, shall contain a not-to-exceed cost for the work, and shall state that the Town has appropriated funds sufficient to cover the additional compensable amount. The terms and conditions of this Agreement relating to Services shall apply to any work under Work Orders.

4. GENERAL PERFORMANCE STANDARDS

a. The Consultant represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Consultant's performance of the Services does not meet this standard, the Consultant shall, at the Town's request, re-perform the Services not meeting this standard without additional compensation.

b. The Consultant shall use reasonable commercial efforts to perform and complete the Services in a timely manner. If performance of the Services by the Consultant is delayed due to factors beyond the Consultant's reasonable control, or if conditions or the scope or type of services are expected to change, Consultant shall give prompt notice to the Town of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Consultant agrees that it has and will continue to comply with all Laws while providing Services under this Agreement. "Laws" means: (i) federal, state, county and local or municipal body or agency laws, statutes, ordinances and regulations; (ii) any licensing bonding, and permit requirements; (iii) any laws relating to storage, use or disposal of hazardous wastes, substances or materials; (iv) rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses; (v) regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970; (vi) Wage and Hour laws, Worker Compensation laws, and immigration laws.

e. The responsibilities and obligations of the Consultant under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, subconsultant or employee of the Town. Review, acceptance or approval by the Town of the Services performed or any documents prepared by the Consultant shall not relieve the Consultant of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be on a time and materials basis, based on the rate schedule set forth in **Exhibit A-1**, not to exceed the amount set forth in the Work Order for each project. The Consultant shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as expressly provided in a Work Order, unless said reimbursement or compensation is approved in writing by the Town in advance of incurring such expenses. Any direct reimbursable costs for materials and/or expenses will be reimbursable at the then current Consultant's accepted rate schedule, provided that the Consultant shall make a reasonable attempt to notify the Town of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Consultant shall provide the Town with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Consultant until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit A-2**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of this Agreement for Services performed in the prior month, and shall contain the following information:

i. An itemized statement of the Services performed, by Work Order and not to exceed the amount set forth in such Work Order.

ii. Any other reasonable information required by the Town to process payment of the invoice, including project and/or cost codes as provided in any applicable written Work Order.

7. TIME FOR PAYMENT. Payment for the Services shall be made by the Town within thirty (30) days of receipt of a timely, satisfactory and detailed invoice in the form required by Section 6, for that portion of the Services performed and not previously billed. In the event that the Town contests all or a portion of an invoice, the Town shall provide timely written notice of the dispute, pay the undisputed portion of the invoice, and hold the remainder of the amount due under the Invoice, pending dispute resolution.

Interest on late payments, if any, other than disputed amounts, shall be paid by the Town at the statutory rate. In the event a Town Council meeting is not scheduled in time to review payment of an invoice, the Town hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Town Council approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the Town's approved budget. Such payment shall require review and approval of each invoice by the Town Manager or applicable Department Head, as appropriate, subject to ratification at the next succeeding special or regular Town Council meeting.

8. INDEPENDENT CONTRACTOR. The Consultant is an independent contractor and nothing in this Agreement shall constitute or designate the Consultant or any of its employees or agents as employees or agents of the Town. The Consultant shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the Town, and shall be responsible for supervising its own employees or subcontractors. The Town is concerned only with the results to be obtained. The Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Consultant shall be responsible for its safety, and the safety of its employees, subcontractors, agents, and representatives. All personnel furnished by the Consultant will be deemed employees or sub-contractors of the Consultant and will not for any purpose be considered employees or agents of the Town, and the Consultant will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Consultant is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Consultant or some other entity other than the Town, and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

9. PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION: EMPLOYEE MEMBERSHIP. Consultant agrees that, concurrent with execution of this Agreement, Consultant will disclose to the Town the membership status of any of Consultant's employees that are members of the Colorado Public Employees' Retirement Association pursuant to §§ 24-51-301 *et*

*seq.*, C.R.S. Failure to meet this requirement shall be a material breach of this Agreement, and the Town's obligations to perform under this Agreement are specifically conditioned on Consultant's performance as required under this Section 10.

10. EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY. This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Consultant represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

11. CONSULTANT'S INSURANCE.

a. The Consultant shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the Town, its directors, officers, employees and agents is required for Commercial General Liability and Workers Compensation coverage. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the Town as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the Town may carry, and any insurance maintained by the Town shall be considered excess. The Town shall have the right to verify or confirm, at any time, all coverage, information or representations contained in this Agreement.

b. Prior to commencing any work under this Agreement, the Consultant shall provide the Town with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit B-1**. If the Consultant subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the Town and the Consultant; provided, however, that subcontractors of the Consultant shall not be required by the Town to provide coverage in excess of that which is required hereunder of the Consultant. If the coverage required expires during the term of this Agreement, the Consultant or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Consultant's failure to purchase the required insurance shall not serve to release it from any obligations contained in this Agreement; nor shall the purchase of the required insurance serve to limit the Consultant's liability under any provision in this Agreement. The Consultant shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. Any information deemed confidential by the Town and given to the Consultant by the Town, or developed by the Consultant as a result of the performance of a particular task, shall remain confidential. In addition, the Consultant shall hold in strict confidence, and shall not use in competition, any information which the Consultant becomes aware



of under or by virtue of this Agreement which the Town deems confidential, or which the Town has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the interests of the Town. Confidential information shall not include, however, any information which is: (i) generally known to the public at the time provided to the Consultant (ii) provided to the Consultant by a person or entity not bound by confidentiality to the Town; or (iii) independently developed by the Consultant without use of the Town's confidential information. During the performance of this Agreement, if the Consultant is notified that certain information is to be considered confidential, the Consultant agrees to enter into a confidentiality agreement in a form reasonably acceptable to the Town and the Consultant. The Consultant agrees that any of its employees, agents or subcontractors with access to any information designated thereunder as confidential information of the Town shall agree to be bound by the terms of such confidentiality agreement.

b. Personal Identifying Information. During the performance of this Agreement, the Town may disclosure Personal Identifying Information to the Consultant. "Personal Identifying Information" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in § 24-73-103(1)(a), C.R.S.; an employer, student, or military identification number; or a financial transaction device, as defined in § 18-5-701(3), C.R.S. In compliance with § 24-73-102, C.R.S., the Consultant agrees to implement and maintain reasonable security procedures and practices that are: (i) appropriate to the nature of the Personal Identifying Information disclosed to the Consultant; and (ii) reasonably designed to help protect the Personal Identifying Information from unauthorized access, use, modification, disclosure, or destruction.

c. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the Town, the Consultant agrees to notify the Town of any conflicts of interest known to the Consultant that impact the Consultant's provision of Services to the Town. Consultants providing any development review services to the Town while also working for a developer on development project(s) within the Timnath Growth Management Area (GMA) will be considered as a potential conflict of interest which must be disclosed to the Town. In such event, the Town may require the Consultant to cease providing any development review services for the Town until completion of the other development project(s).

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Consultant prepared pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the Town under all circumstances, upon payment to the Consultant of the invoices representing the work by which such materials were produced. At the Town's request, the Consultant will provide the Town with all documents produced by or on behalf of the Consultant pursuant to this Agreement. The Consultant shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services for a period of two years after termination of this Agreement, shall make them available for the Town's use and shall provide such copies to the Town upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Consultant shall not have any right or interest in any Town assets, or any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in this Agreement assuming the Consultant has been paid for all services rendered. The Consultant, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the Town's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Consultant shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Consultant to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Consultant further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the Town. The Consultant will provide indemnification against all such liens or verified statements of claim filed with the Town for labor performed, materials supplied or used by the Consultant and/or any other person in connection with the Services undertaken by the Consultant, in accordance with Section 16, below.

15. INDEMNIFICATION.

Consultant shall indemnify and save and hold harmless the Town, its councilmembers, officers, agents, contractors, and employees from and against: (1) damages, including but not limited to, loss of use of property or injuries to or death of any person or persons (including but not limited to property and officers and employees of the Town) and (2) claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees costs), causes of action, or other legal, equitable or administrative proceedings, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers' compensation which is incurred by the Town but only to the extent caused by or arising out of the errors and omissions, willful misconduct, criminal, tortious or negligent actions or omissions of Consultant in connection with Consultant's operations or performance herewith or Consultant's use or occupancy of real or personal property hereunder, including such acts or omissions of employees, agents, subcontractors or representatives of Consultant; provided however, that Consultant need not indemnify the Town or its councilmembers, officers, agents and employees from damages proximately caused by the negligence of the Town's officers, agents and employees.

This indemnity coverage shall also cover the Town's defense costs in the event that the Town, in its sole discretion, elects to provide its own defense. The Town retains the right to disapprove counsel, if any, selected by the Consultant to fulfill the foregoing defense indemnity obligation. In the event the Consultant fails to assume the defense of any claims under this Section 16 within fifteen days after notice from the Town of the existence of such claim, the Town may assume the defense of the Claim with counsel of its own selection, and the Consultant will pay all reasonable expenses of such counsel.

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of Consultant under the terms of this indemnification obligation. Consultant shall obtain, at its own expense, any additional insurance that Consultant deems necessary for the Town's

protection in the performance of this Agreement. This indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Consultant shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the Town. Any attempted assignment of this Agreement in whole or in part with respect to which the Town has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUBCONTRACTORS. Consultant shall not subcontract any Services without prior written approval by the Town. Consultant is solely and fully responsible to the Town for the performance of all Services in accordance with the terms set forth in this Agreement, whether performed by the Consultant or a subcontractor engaged by the Consultant, and neither the Town's approval of any subcontractor, suppliers, or materialman, nor the failure of performance thereof by such persons or entities, will relieve, release, or affect in any manner the Consultant's duties, liabilities, or obligations under this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the Town.

18. TERMINATION. This Agreement may be terminated for cause or convenience by the Town by giving the Consultant thirty (30) days' prior written notice. Each Party may terminate this Agreement for cause at any time upon such thirty (30) day written notice to the other Party, setting forth the cause for termination, and the notified Party's failure to cure the default within the cure period after notice of default set forth in Section 19. If this Agreement is terminated, the Consultant shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. In the event of termination of this Agreement, the Consultant shall cooperate with the Town to ensure a timely and efficient transition of all work and work product to the Town or its designees. All time, fees and costs associated with such transition shall not be billed by the Consultant to the Town, unless the Town terminates the Agreement for convenience.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have ten days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such ten-day period and the defaulting party gives written notice to the non-defaulting party within such ten-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the ten-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement with thirty days advance notice and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice required under this Agreement must be in writing, and may be given by hand-delivery, sent via nationally recognized overnight carrier service, or sent by

certified mail, return receipt requested. The notice will be deemed to have been given upon receipt, in the case of hand-delivery or certified mail, or one business day after being deposited with a nationally recognized overnight air courier service. Any Party may update its address by giving written notice to the other Party as provided in this Section 20. Such notices or communications will be given to the parties at their addresses set forth below:

- To the Town:           Town of Timnath  
                              Attn: Public Works Director  
                              4750 Signal Tree Drive  
                              Timnath, CO 80547  
                              970-224-3211 (phone)  
                              970-224-3217 (fax)
- With copy to:           Timnath Town Attorney  
                              Attn: Carolyn Steffl  
                              4750 Signal Tree Drive  
                              Timnath, Colorado 80547  
                              (970) 224-3211 (phone)  
                              (970) 224-3217 (fax)
- Consultant:             Next Phase Engineering, LLC  
                              Attn: Martina Wilkinson  
                              3405 Harbor Way  
                              Fort Collins, CO 80524  
                              (970) 988-0143 (phone)

21. AUDITS. The Town shall have the right to audit, with reasonable notice, any of the Consultant's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records), and the Consultant agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two years after termination of the Agreement and to make the same available to the Town at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Consultant and the Town.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such

waiver constitute a continuing waiver unless otherwise expressly provided in this Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW.

a. Venue. Venue for all actions arising from this Agreement shall be in the District Court in and for the County where the project will be constructed or in Larimer County. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the Town's request, the Consultant shall carry on its duties and obligations under this Agreement during any legal proceedings and the Town shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

b. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles.

c. Litigation. At the Town's request, the Consultant will consent to being joined in litigation between the Town and third parties related to the Work or this Agreement, but such consent shall not be construed as an admission of fault or liability. The Consultant shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the Town to furnish timely information or to approve or disapprove of Consultant's Services in a timely manner.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. Pursuant to § 24-91-103.6(2), C.R.S., the Parties hereby agree that the amount of money appropriated by the Town for the Services is equal to the compensation amount set forth in any Work Orders attached at the time of execution of this Agreement. This Agreement shall not be modified to require the Consultant to perform additional compensable work unless the Town has made lawful appropriations to cover the costs of the additional work. The Town does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the Town pursuant to this Agreement requiring budgeting and appropriation of funds in future years are subject to annual budgeting and appropriations.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Town, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available to the Town pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS AND PRIORITY. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement. In the event of a conflict between the terms of the body of this Agreement and the Exhibits attached to this Agreement, the terms of the body of this Agreement shall control. Any waiver of liability or

warranty or requirement for payment of attorneys' fees by the Town contained in any Exhibit shall not be binding against the Town.

30. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the intention being that such portions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202 *et seq.*, C.R.S.

33. TAX EXEMPT STATUS. The Town is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the Town is exempt shall not be included in any invoices submitted to the Town. The Town shall, upon request, furnish Consultant with a copy of its certificate of tax exemption. Consultant and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase materials tax free. The Consultant and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

34. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

TOWN:

TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado

DocuSigned by:  
*Aaron Adams*  
A7C880DD439C4A6...  
Aaron Adams, Town Manager

ATTEST:

DocuSigned by:  
*Milissa Peters Garcia*  
07A6AF3B02114D7...  
Milissa Peters-Garcia, CMC Town Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*Carolyn Steffl*  
F44B3963ECCD949F...  
Carolyn R. Steffl, Town Attorney

***Town's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Next Phase Engineering, LLC, dated June 11, 2024***

NEXT PHASE ENGINEERING, LLC:  
A Colorado Limited Liability Company

DocuSigned by:

*Martina Wilkinson*

73D23094314A437...

Printed Name: Martina wilkinson

Title: Principal

***Consultant's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Next Phase Engineering, LLC, dated June 11, 2024***



**EXHIBIT A**  
**FORM OF WORK ORDER**

**EXHIBIT A  
WORK ORDER NUMBER \_\_\_\_\_**

PURSUANT TO PROFESSIONAL SERVICES MASTER AGREEMENT FOR  
\_\_\_\_\_ ENGINEERING BETWEEN  
THE TOWN OF TIMNATH  
AND  
**PROFESSIONAL'S NAME**

**MASTER AGREEMENT NAME:** \_\_\_\_\_

**MASTER AGREEMENT EFFECTIVE DATE:** \_\_\_\_\_

**PROJECT TITLE:** \_\_\_\_\_

**WORK ORDER COMMENCEMENT DATE:** \_\_\_\_\_

**WORK ORDER COMPLETION DATE:** \_\_\_\_\_

**NOT-TO-EXCEED FEE FOR THIS WORK ORDER:** (time and reimbursable direct costs):  
\_\_\_\_\_

**PROJECT DESCRIPTION/SCOPE OF SERVICES:** \_\_\_\_\_

CONSULTANT agrees to perform the services identified above and on the attached forms in accordance with the terms and conditions contained herein and in the Professional Services Master Agreement for \_\_\_\_\_ Engineering (the "Master Agreement") between the parties. In the event of a conflict between or ambiguity in the terms of the Master Agreement and this Work Order (including the attached forms) the Master Agreement shall control.

The attached forms consisting of ( ) page(s) are hereby accepted and incorporated herein, by this reference, and Notice to Proceed is hereby given after all parties have signed this document.

The Town affirms that it has appropriated sufficient funds to cover the additional work set forth in this Work Order, up to the not to exceed amount set forth above, in addition to any work under Master Agreement or prior Work Orders thereto; and that such funds shall be available prior to performance of the additional work.

CONSULTANT: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

TOWN: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

ATTEST: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

**EXHIBIT A-1**  
**CONSULTANT'S COMPLETED W-9**

Form **W-9**  
 (Rev. October 2018)  
 Department of the Treasury  
 Internal Revenue Service

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type.  
 See Specific Instructions on page 3.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**Next Phase Engineering, LLC**

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC     C Corporation     S Corporation     Partnership     Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶   P  

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

**5** Address (number, street, and apt. or suite no.) See instructions.  
**3405 Harbor Way**

**6** City, state, and ZIP code  
**Fort Collins, CO 80524**

**7** List account number(s) here (optional)

Requester's name and address (optional)

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Social security number**

--	--	--	--	--	--	--	--	--	--	--	--

or

**Employer identification number**

8	5	-	1	5	5	3	5	8	8
---	---	---	---	---	---	---	---	---	---

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign Here**

Signature of U.S. person ▶

Date ▶ **May 29, 2024**

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

**EXHIBIT A-2**  
Consultant's Rate Schedule



3405 Harbor Way  
Fort Collins, CO 80524

## 2024 Hourly Rates (Fee Schedule)

<u>Staff Member</u>	<u>Title</u>	<u>Hourly Rate</u>
Joe Olson, P.E.	Principal	\$ 200.-
Martina Wilkinson, P.E. PTOE	Principal	\$ 200.-
Technical Work	CADD	\$ 95.-
Clerical Work	Administrative	\$ 65.-

Subconsultant charges billed at cost (0% markup)  
Transportation fees (mileage) billed at current national rate  
Direct Expenses billed at cost (0% markup)





## Billing Rates

<b>Title</b>	<b>Hourly Rate</b>
Principal III	\$235.00
Principal II	\$225.00
Principal I	\$210.00
Senior Associate	\$200.00
Senior Transportation Engineer	\$190.00
Transportation Engineer II	\$180.00
Transportation Engineer I	\$160.00
Senior Transportation Planner	\$180.00
Transportation Planner II	\$160.00
Transportation Planner I	\$130.00
Engineering Technician	\$130.00
Administrative	\$95.00
Field Technician	\$85.00

Mileage invoiced at IRS Rate

Direct Expenses Billed at Cost (0% Markup)

Rev. 11/30/23



**Billing Rates 2024**

Mike Oberlander, P.E.	\$ 230.-
Charla Glendening	\$ 210.-
Sara Weier	\$ 170.-
Jon Lofton	\$ 140.-
Tim Kemp, P.E.	\$ 210.-
Max Rusch, P.E. PTOE	\$ 170.-
Jerry Neville	\$ 110.-
Abby Wright, E.I.T.	\$ 110.-



## EXHIBIT B

### INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 12 of this Agreement.

1. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate, and \$1,000,000 umbrella. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to, to the extent applicable:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. limited contractual;\*
  - d. broad form property damages; and
  - e. medical payments.

**\*This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement.**

2. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of operation or use of an automobile.**
3. If applicable: Consultant shall secure and maintain a third party fidelity bond in favor of the Town covering the Consultant and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the Town. Such bond shall protect the Town against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the Town. Said bond shall be in an amount as determined by the Town, from a surety acceptable to the Town.
4. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.
5. Professional liability insurance in the minimum amount of \$1,000,000.00 each occurrence; \$2,000,000.00 aggregate.

**EXHIBIT B-1**  
CERTIFICATE(S) OF INSURANCE



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/29/2024

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATIONIS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> USAA INSURANCE AGENCY INC/PHS 65812846 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251	<b>CONTACT NAME:</b> PHONE (888) 242-1430 FAX (A/C, No, Ext): (A/C, No):														
	<b>E-MAIL ADDRESS:</b> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">INSURER(S) AFFORDING COVERAGE</td> <td style="width: 50%; text-align: center;">NAIC#</td> </tr> <tr> <td>INSURER A: Hartford Underwriters Insurance Company</td> <td>30104</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE	NAIC#	INSURER A: Hartford Underwriters Insurance Company	30104	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:
INSURER(S) AFFORDING COVERAGE	NAIC#														
INSURER A: Hartford Underwriters Insurance Company	30104														
INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

**INSURED**  
NEXT PHASE ENGINEERING, LLC  
3405 HARBOR WAY  
Fort Collins CO 80524

**COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/Y YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> General Liability  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	65 SBA AH2X4U	08/10/2023	08/10/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	X	65 SBA AH2X4U	08/10/2023	08/10/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ 10,000 <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	X	X	65 SBA AH2X4U	08/10/2023	08/10/2024	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT E.L. DISEASE -EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	Employment Practices Liability Insurance			65 SBA AH2X4U	08/10/2023	08/10/2024	Each Claim Limit \$25,000 Annual Aggregate Limit \$25,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Those usual to the Insured's Operations. Certificate holder is an additional insured per the Business Liability Coverage Form SL3032 attached to this policy. Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SL0000, attached to this policy.

<b>CERTIFICATE HOLDER</b> Town of Timnath 4750 SIGNAL TREE DR TIMNATH CO 80547	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
8/18/2023

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT : If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed if SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on This certificate does not confer rights to the certificate holder in lieu of such an endorsement(s).**

<b>PRODUCER</b> USAA INSURANCE AGENCY 9800 FREDERICKSBURG RD SAN ANTONIO, TX 78288-0001	<b>CONTACT NAME:</b>	
	<b>PHONE</b> (A/C. No. Ext.): 800-531-8722	<b>FAX</b> (A/C. No. Ext.):
	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b>	
<b>INSURED</b> NEXT PHASE ENGINEERING, LLC 3405 HARBOR WAY FORT COLLINS, CO 80524	<b>INSURER A : TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA</b>	
	<b>INSURER B :</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER						EACH OCCURRENCE	\$
							DAMAGE TO RENTED PREMISES (Ea Occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
							GENERAL AGGREGATE	\$
							PRODUCTS - COMP/OP AGG	\$
	<b>AUTOMOBILE LIABILITY</b> ANY AUTO  <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS BELOW <input type="checkbox"/> Y/N      N/A						PER STATUTE	OTH -ER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
A	Professional Liability - Design Professionals			107308519	09/01/2023	09/01/2024	EACH CLAIM	\$1,000,000
							AGGREGATE	\$2,000,000
								\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER      CANCELLATION**

NEXT PHASE ENGINEERING, LLC 3405 HARBOR WAY FORT COLLINS, CO 80524	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS</b> AUTHORIZED REPRESENTATIVE 
--	---

**EXHIBIT C**

**CERTIFICATE OF GOOD STANDING WITH COLORADO SECRETARY OF STATE**

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Next Phase Engineering, LLC

is a

Limited Liability Company

formed or registered on 06/22/2020 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20201531164 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 05/23/2024 that have been posted, and by documents delivered to this office electronically through 05/29/2024 @ 14:33:40 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 05/29/2024 @ 14:33:40 in accordance with applicable law. This certificate is assigned Confirmation Number 16078132 .



Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*

**PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING (WORK ORDERS) WITH MULLER ENGINEERING COMPANY, INC**

This PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING SERVICES, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 11<sup>th</sup> day of June, 2024 by and between THE TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado (the “Town”), and Muller Engineering Company, Inc a Colorado Corporation (the “Consultant”). The Town and the Consultant are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS**

WHEREAS, the Town is a Home Rule Municipality, authorized to provide certain services within its corporate boundaries;

WHEREAS, from time to time, the Town has need of contracted professional engineering services, for purposes which may include without limitation, design, bidding and project review/management of discrete Town projects and review of development permit applications and plans; and

WHEREAS, the Consultant employs licensed professional engineers and is in good standing with the Colorado Secretary of State (*see Exhibit C*); and

WHEREAS, the Town desires to engage the Consultant to render the services described in this Agreement, pursuant to Work Orders approved in writing by both parties and attached to this contract; and

WHEREAS, the Town is authorized to contract for the provision of such services pursuant to §§ 31-15-101, *et seq.*, C.R.S.;

WHEREAS, the Consultant has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**TERMS AND CONDITIONS**

1. **SCOPE OF SERVICES.** The Consultant shall provide engineering services as set forth in Work Orders approved by both parties in writing (“Work Orders”), and all of Consultant’s work under such Work Orders shall be collectively referred to as the “Services”. All Services shall be performed: (a) in a professional manner, to the satisfaction of the Town, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the Town; (b) within the time period and pursuant to the requirements of said Work Order and (c) using reasonable efforts to minimize any annoyance, interference or disruption to the residents, tenants, occupants and invitees within the Town. In the event of any conflict between

terms set forth in the body of this Agreement and terms set forth in a Work Order, the terms in the body of this Agreement shall govern. Consultant shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the Town in any manner whatsoever, except to the extent specifically provided in this Agreement (including Work Orders) or through other authorization expressly delegated to Consultant or authorized by the Town through the Town Council.

2. TERM/RENEWAL. This Agreement shall be effective as of the dated date hereof and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; (ii) one (1) year after execution of this Agreement. Notwithstanding the foregoing, unless terminated, or unless the Town determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for up to four (4) additional one-year terms commencing June 10<sup>th</sup> of the next succeeding year. Any payment obligations of the Town in years other than the year of signing are pursuant to budget and appropriation and the Town can cancel this contract without penalties in the event of non-appropriation.

3. WORK ORDERS. The Town and the Consultant may agree for the Consultant to provide specific work, subject to the mutual agreement of the Consultant and the Town pursuant to a written Work Order, in substantially the form attached hereto as **Exhibit A**, executed by an authorized representative of each Party. Work Orders shall be sequentially numbered and attached to this Agreement and automatically incorporated herein upon signature by both Parties. Each Work Order shall set forth the required date for completion or a schedule for various tasks, shall contain a not-to-exceed cost for the work, and shall state that the Town has appropriated funds sufficient to cover the additional compensable amount. The terms and conditions of this Agreement relating to Services shall apply to any work under Work Orders.

4. GENERAL PERFORMANCE STANDARDS

a. The Consultant represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Consultant's performance of the Services does not meet this standard, the Consultant shall, at the Town's request, re-perform the Services not meeting this standard without additional compensation.

b. The Consultant shall use reasonable commercial efforts to perform and complete the Services in a timely manner. If performance of the Services by the Consultant is delayed due to factors beyond the Consultant's reasonable control, or if conditions or the scope or type of services are expected to change, Consultant shall give prompt notice to the Town of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

d. The Consultant agrees that it has and will continue to comply with all Laws while providing Services under this Agreement. "Laws" means: (i) federal, state, county and local or municipal body or agency laws, statutes, ordinances and regulations; (ii) any licensing bonding,



and permit requirements; (iii) any laws relating to storage, use or disposal of hazardous wastes, substances or materials; (iv) rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses; (v) regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970; (vi) Wage and Hour laws, Worker Compensation laws, and immigration laws.

e. The responsibilities and obligations of the Consultant under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, subconsultant or employee of the Town. Review, acceptance or approval by the Town of the Services performed or any documents prepared by the Consultant shall not relieve the Consultant of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be on a time and materials basis, based on the rate schedule set forth in **Exhibit A-1**, not to exceed the amount set forth in the Work Order for each project. The Consultant shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as expressly provided in a Work Order, unless said reimbursement or compensation is approved in writing by the Town in advance of incurring such expenses. Any direct reimbursable costs for materials and/or expenses will be reimbursable at the then current Consultant's accepted rate schedule, provided that the Consultant shall make a reasonable attempt to notify the Town of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Consultant shall provide the Town with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Consultant until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit A-2**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of this Agreement for Services performed in the prior month, and shall contain the following information:

i. An itemized statement of the Services performed, by Work Order and not to exceed the amount set forth in such Work Order.

ii. Any other reasonable information required by the Town to process payment of the invoice, including project and/or cost codes as provided in any applicable written Work Order.

7. TIME FOR PAYMENT. Payment for the Services shall be made by the Town within thirty (30) days of receipt of a timely, satisfactory and detailed invoice in the form required by Section 6, for that portion of the Services performed and not previously billed. In the event that

the Town contests all or a portion of an invoice, the Town shall provide timely written notice of the dispute, pay the undisputed portion of the invoice, and hold the remainder of the amount due under the Invoice, pending dispute resolution.

Interest on late payments, if any, other than disputed amounts, shall be paid by the Town at the statutory rate. In the event a Town Council meeting is not scheduled in time to review payment of an invoice, the Town hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Town Council approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the Town's approved budget. Such payment shall require review and approval of each invoice by the Town Manager or applicable Department Head, as appropriate, subject to ratification at the next succeeding special or regular Town Council meeting.

8. INDEPENDENT CONTRACTOR. The Consultant is an independent contractor and nothing in this Agreement shall constitute or designate the Consultant or any of its employees or agents as employees or agents of the Town. The Consultant shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the Town, and shall be responsible for supervising its own employees or subcontractors. The Town is concerned only with the results to be obtained. The Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Consultant shall be responsible for its safety, and the safety of its employees, subcontractors, agents, and representatives. All personnel furnished by the Consultant will be deemed employees or sub-contractors of the Consultant and will not for any purpose be considered employees or agents of the Town, and the Consultant will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Consultant is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Consultant or some other entity other than the Town, and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

9. PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION: EMPLOYEE MEMBERSHIP. Consultant agrees that, concurrent with execution of this Agreement, Consultant will disclose to the Town the membership status of any of Consultant's employees that are members of the Colorado Public Employees' Retirement Association pursuant to §§ 24-51-301 *et seq.*, C.R.S. Failure to meet this requirement shall be a material breach of this Agreement, and the Town's obligations to perform under this Agreement are specifically conditioned on Consultant's performance as required under this Section 10.

10. EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY. This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Consultant represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

11. CONSULTANT'S INSURANCE.

a. The Consultant shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the Town, its directors, officers, employees and agents is required for Commercial General Liability and Workers Compensation coverage. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the Town as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the Town may carry, and any insurance maintained by the Town shall be considered excess. The Town shall have the right to verify or confirm, at any time, all coverage, information or representations contained in this Agreement.

b. Prior to commencing any work under this Agreement, the Consultant shall provide the Town with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit B-1**. If the Consultant subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the Town and the Consultant; provided, however, that subcontractors of the Consultant shall not be required by the Town to provide coverage in excess of that which is required hereunder of the Consultant. If the coverage required expires during the term of this Agreement, the Consultant or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Consultant's failure to purchase the required insurance shall not serve to release it from any obligations contained in this Agreement; nor shall the purchase of the required insurance serve to limit the Consultant's liability under any provision in this Agreement. The Consultant shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. Any information deemed confidential by the Town and given to the Consultant by the Town, or developed by the Consultant as a result of the performance of a particular task, shall remain confidential. In addition, the Consultant shall hold in strict confidence, and shall not use in competition, any information which the Consultant becomes aware of under or by virtue of this Agreement which the Town deems confidential, or which the Town has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the interests of the Town. Confidential information shall not include, however, any information which is: (i) generally known to the public at the time provided to the Consultant (ii)

provided to the Consultant by a person or entity not bound by confidentiality to the Town; or (iii) independently developed by the Consultant without use of the Town's confidential information. During the performance of this Agreement, if the Consultant is notified that certain information is to be considered confidential, the Consultant agrees to enter into a confidentiality agreement in a form reasonably acceptable to the Town and the Consultant. The Consultant agrees that any of its employees, agents or subcontractors with access to any information designated thereunder as confidential information of the Town shall agree to be bound by the terms of such confidentiality agreement.

b. Personal Identifying Information. During the performance of this Agreement, the Town may disclosure Personal Identifying Information to the Consultant. "Personal Identifying Information" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in § 24-73-103(1)(a), C.R.S.; an employer, student, or military identification number; or a financial transaction device, as defined in § 18-5-701(3), C.R.S. In compliance with § 24-73-102, C.R.S., the Consultant agrees to implement and maintain reasonable security procedures and practices that are: (i) appropriate to the nature of the Personal Identifying Information disclosed to the Consultant; and (ii) reasonably designed to help protect the Personal Identifying Information from unauthorized access, use, modification, disclosure, or destruction.

c. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the Town, the Consultant agrees to notify the Town of any conflicts of interest known to the Consultant that impact the Consultant's provision of Services to the Town. Consultants providing any development review services to the Town while also working for a developer on development project(s) within the Timnath Growth Management Area (GMA) will be considered as a potential conflict of interest which must be disclosed to the Town. In such event, the Town may require the Consultant to cease providing any development review services for the Town until completion of the other development project(s).

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Consultant pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the Town under all circumstances, upon payment to the Consultant of the invoices representing the work by which such materials were produced. At the Town's request, the Consultant will provide the Town with all documents produced by or on behalf of the Consultant pursuant to this Agreement. The Consultant shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services for a period of two years after termination of this Agreement, shall make them available for the Town's use and shall provide such copies to the Town upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Consultant shall not have any right or interest in any Town assets, or any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in this Agreement assuming the Consultant has been paid for all services rendered. The Consultant, for itself, hereby waives and releases any and all

statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the Town's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Consultant shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Consultant to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Consultant further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the Town. The Consultant will provide indemnification against all such liens or verified statements of claim filed with the Town for labor performed, materials supplied or used by the Consultant and/or any other person in connection with the Services undertaken by the Consultant, in accordance with Section 16, below.

15. INDEMNIFICATION.

Consultant shall indemnify and save and hold harmless the Town, its councilmembers, officers, agents, contractors, and employees from and against: (1) damages, including but not limited to, loss of use of property or injuries to or death of any person or persons (including but not limited to property and officers and employees of the Town) and (2) claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees costs), causes of action, or other legal, equitable or administrative proceedings, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers' compensation which is incurred by the Town but only to the extent caused by or arising out of the errors and omissions, willful misconduct, criminal, tortious or negligent actions or omissions of Consultant in connection with Consultant's operations or performance herewith or Consultant's use or occupancy of real or personal property hereunder, including such acts or omissions of employees, agents, subcontractors or representatives of Consultant; provided however, that Consultant need not indemnify the Town or its councilmembers, officers, agents and employees from damages proximately caused by the negligence of the Town's officers, agents and employees. Consultant's indemnification shall be consistent with C.R.S. 13-50.5-102(8).

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of Consultant under the terms of this indemnification obligation. Consultant shall obtain, at its own expense, any additional insurance that Consultant deems necessary for the Town's protection in the performance of this Agreement. This indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Consultant shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the Town. Any attempted assignment of this Agreement in whole or in part with respect to which the Town has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUBCONTRACTORS. Consultant shall not subcontract any Services without prior written approval by the Town. Consultant is solely and fully responsible to the Town for the performance of all Services in accordance with the terms set forth in this Agreement, whether

performed by the Consultant or a subcontractor engaged by the Consultant, and neither the Town's approval of any subcontractor, suppliers, or materialman, nor the failure of performance thereof by such persons or entities, will relieve, release, or affect in any manner the Consultant's duties, liabilities, or obligations under this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the Town.

18. TERMINATION. This Agreement may be terminated for cause or convenience by the Town by giving the Consultant thirty (30) days' prior written notice. Each Party may terminate this Agreement for cause at any time upon such thirty (30) day written notice to the other Party, setting forth the cause for termination, and the notified Party's failure to cure the default within the cure period after notice of default set forth in Section 19. If this Agreement is terminated, the Consultant shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. In the event of termination of this Agreement, the Consultant shall cooperate with the Town to ensure a timely and efficient transition of all work and work product to the Town or its designees. All time, fees and costs associated with such transition shall not be billed by the Consultant to the Town, unless the Town terminates the Agreement for convenience.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have ten days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such ten-day period and the defaulting party gives written notice to the non-defaulting party within such ten-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the ten-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement with thirty days advance notice and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice required under this Agreement must be in writing, and may be given by hand-delivery, sent via nationally recognized overnight carrier service, or sent by certified mail, return receipt requested. The notice will be deemed to have been given upon receipt, in the case of hand-delivery or certified mail, or one business day after being deposited with a nationally recognized overnight air courier service. Any Party may update its address by giving written notice to the other Party as provided in this Section 20. Such notices or communications will be given to the parties at their addresses set forth below:

To the Town:	Town of Timnath Attn: Public Works Director 4750 Signal Tree Drive Timnath, CO 80547 970-224-3211 (phone)
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970-224-3217 (fax)

With copy to: Timnath Town Attorney  
Attn: Carolyn Steffl  
4750 Signal Tree Drive  
Timnath, Colorado 80547  
(970) 224-3211 (phone)  
(970) 224-3217 (fax)

Consultant: Muller Engineering Company, Inc  
Attn: A. Gray Clark  
7245 West Alaska Drive, Suite 300  
Lakewood, CO 80226  
(303) 988-4939 (phone)

21. AUDITS. The Town shall have the right to audit, with reasonable notice, any of the Consultant's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records), and the Consultant agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two years after termination of the Agreement and to make the same available to the Town at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Consultant and the Town.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in this Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW.

a. Venue. Venue for all actions arising from this Agreement shall be in the District Court in and for the County where the project will be constructed or in Larimer County. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the Town's request, the Consultant shall carry on its duties and obligations under this Agreement during any legal proceedings

and the Town shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

b. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles.

c. Litigation. At the Town's request, the Consultant will consent to being joined in litigation between the Town and third parties related to the Work or this Agreement, but such consent shall not be construed as an admission of fault or liability. The Consultant shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the Town to furnish timely information or to approve or disapprove of Consultant's Services in a timely manner.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. Pursuant to § 24-91-103.6(2), C.R.S., the Parties hereby agree that the amount of money appropriated by the Town for the Services is equal to the compensation amount set forth in any Work Orders attached at the time of execution of this Agreement. This Agreement shall not be modified to require the Consultant to perform additional compensable work unless the Town has made lawful appropriations to cover the costs of the additional work. The Town does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the Town pursuant to this Agreement requiring budgeting and appropriation of funds in future years are subject to annual budgeting and appropriations.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Town, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available to the Town pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS AND PRIORITY. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement. In the event of a conflict between the terms of the body of this Agreement and the Exhibits attached to this Agreement, the terms of the body of this Agreement shall control. Any waiver of liability or warranty or requirement for payment of attorneys' fees by the Town contained in any Exhibit shall not be binding against the Town.

30. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the intention being that such portions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.



31. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202 *et seq.*, C.R.S.

33. TAX EXEMPT STATUS. The Town is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the Town is exempt shall not be included in any invoices submitted to the Town. The Town shall, upon request, furnish Consultant with a copy of its certificate of tax exemption. Consultant and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase materials tax free. The Consultant and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

34. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

TOWN:

TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado

DocuSigned by:

*Aaron Adams*

Aaron Adams, Town Manager

ATTEST:

DocuSigned by:

*Milissa Peters Garcia*

Milissa Peters-Garcia, CMC Town Clerk

APPROVED AS TO FORM:

DocuSigned by:

*Carolyn Steffl*

Carolyn Steffl, Town Attorney

***Town's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Muller Engineering Company, Inc, dated June 11, 2024***

MULLER ENGINEERING COMPANY, INC:  
A Colorado Corporation

DocuSigned by:  
  
4407788D711C43F...

Printed Name: A. Gray Clark

Title: President

***Consultant's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Muller Engineering Company, Inc, dated June 11, 2024***

**EXHIBIT A**  
**FORM OF WORK ORDER**

**EXHIBIT A  
WORK ORDER NUMBER \_\_\_\_\_**

PURSUANT TO PROFESSIONAL SERVICES MASTER AGREEMENT FOR  
\_\_\_\_\_ ENGINEERING BETWEEN  
THE TOWN OF TIMNATH  
AND  
**PROFESSIONAL'S NAME**

**MASTER AGREEMENT NAME:** \_\_\_\_\_

**MASTER AGREEMENT EFFECTIVE DATE:** \_\_\_\_\_

**PROJECT TITLE:** \_\_\_\_\_

**WORK ORDER COMMENCEMENT DATE:** \_\_\_\_\_

**WORK ORDER COMPLETION DATE:** \_\_\_\_\_

**NOT-TO-EXCEED FEE FOR THIS WORK ORDER:** (time and reimbursable direct costs):  
\_\_\_\_\_

**PROJECT DESCRIPTION/SCOPE OF SERVICES:** \_\_\_\_\_

CONSULTANT agrees to perform the services identified above and on the attached forms in accordance with the terms and conditions contained herein and in the Professional Services Master Agreement for \_\_\_\_\_ Engineering (the "Master Agreement") between the parties. In the event of a conflict between or ambiguity in the terms of the Master Agreement and this Work Order (including the attached forms) the Master Agreement shall control.

The attached forms consisting of ( ) page(s) are hereby accepted and incorporated herein, by this reference, and Notice to Proceed is hereby given after all parties have signed this document.

The Town affirms that it has appropriated sufficient funds to cover the additional work set forth in this Work Order, up to the not to exceed amount set forth above, in addition to any work under Master Agreement or prior Work Orders thereto; and that such funds shall be available prior to performance of the additional work.

CONSULTANT: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

TOWN: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

ATTEST: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

**EXHIBIT A-1**  
**CONSULTANT'S COMPLETED W-9**

Form **W-9**  
(Rev. March 2024)  
Department of the Treasury  
Internal Revenue Service

# Request for Taxpayer Identification Number and Certification

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See Specific Instructions on page 3.

**1** Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)  
**Muller Engineering Company, Inc.**

**2** Business name/disregarded entity name, if different from above.

**3a** Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes.  
 Individual/sole proprietor     C corporation     S corporation     Partnership     Trust/estate  
 LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) \_\_\_\_\_  
 Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.  
 Other (see instructions) \_\_\_\_\_

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the United States.)*

**3b** If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions \_\_\_\_\_

**5** Address (number, street, and apt. or suite no.). See instructions.  
**7245 W. Alaska Drive, Ste. 300**

**6** City, state, and ZIP code  
**Lakewood, CO 80226**

**7** List account number(s) here (optional)

Requester's name and address (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Social security number**

			-				-				
--	--	--	---	--	--	--	---	--	--	--	--

or

**Employer identification number**

8	4	-	0	8	1	9	9	6	5
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**Note:** If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign Here**    Signature of U.S. person     Date **03/13/2024**

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

**EXHIBIT A-2**  
Consultant's Rate Schedule



**FEE SCHEDULE/BILLING STRUCTURE****2024 SCHEDULE OF STANDARD BILLING RATES**

<u>Professional Staff Category</u>	<u>Hourly Billing Rate</u>
Principal Engineer 3	\$273
Principal Engineer 2	\$252
Principal Engineer 1	\$239
Senior Project Manager 9	\$252
Senior Project Manager 8 or Senior Project Engineer 8	\$239
Project Manager 7H or Senior Project Engineer 7H	\$228
Project Manager 7L or Senior Project Engineer 7L	\$217
Project Manager 6H or Senior Project Engineer 6H	\$206
Project Manager 6L or Senior Project Engineer 6L	\$196
Project Engineer 5H	\$186
Project Engineer 5L	\$173
Project Engineer 4	\$161
Design Engineer 3	\$146
Design Engineer 2	\$132
Design Engineer 1	\$118
Environmental Planning Manager	\$228
Senior Resiliency & Grant Specialist	\$217
Environmental Planner 2	\$146
Environmental Planner 1	\$118
Environmental Specialist/Scientist 2	\$132
Environmental Specialist/Scientist 1	\$118
Construction Manager	\$186
CAD Manager	\$176
Senior Designer 3	\$166
Senior Designer 2	\$154
Designer 1	\$138
GIS Manager	\$154
GIS Analyst	\$138
GIS Technician	\$118
Technician/CADD Operator 4	\$128
Technician/CADD Operator 3	\$118
Technician/CADD Operator 2	\$106
Technician/CADD Operator 1	\$95
Graphic Designer	\$118
Communications Specialist	\$133
Project Accountant	\$139
Project Coordinator	\$110
Administrative Support	\$97
Intern	\$73
<b><u>Other Direct Costs</u></b>	
Vehicle Mileage (Current approved IRS rate).....	\$0.67/mile (starting 1/1/2024)
8 ½ x 11 Photocopies .....	B&W \$0.10, Color \$0.30 / copy
22" x 34" Prints .....	\$2.00 / sheet

Use of computers, computer software, and long distance telephone is included in the hourly rates of personnel. Items charged at actual cost: subconsultant services, messenger delivery, overnight delivery, equipment rental, outside computer, out-of-office reproduction expenses, out-of-town living expenses, travel costs, and other miscellaneous direct project expenses.

Rates herein are effective as of December 21, 2023, and subject to change as of December 21, 2024

## 2024 Schedule of Fees



Position	Hourly Rate
Senior Principal	\$ 228
Project Principal	\$ 209
Senior Project Manager	\$ 204
Senior Project Biologist	\$ 191
Biologist I	\$ 161
Biologist II	\$ 132
Staff Biologist	\$ 113
Biological Technician	\$ 88
Natural Resource Technician	\$ 68
Senior Environmental Planner	\$ 192
Project Environmental Planner	\$ 168
Staff Environmental Planner I	\$ 149
Staff Environmental Planner II	\$ 130
Staff Environmental Planner III	\$ 112
Senior Geoscientist	\$ 193
Geoscientist I	\$ 161
Geoscientist II	\$ 137
Staff Geoscientist	\$ 114
Geoscience Technician	\$ 83
Graphics Specialist	\$ 136
GIS Specialist I	\$ 136
GIS Specialist II	\$ 114
GIS Technician	\$ 82
Cultural Resource Principal Investigator	\$ 191
Senior Cultural Resource Specialist	\$ 149
Project Cultural Resource Specialist I	\$ 118
Project Cultural Resource Specialist II	\$ 108
Project Cultural Resource Specialist III	\$ 100
Staff Cultural Resource Specialist I	\$ 96
Staff Cultural Resource Specialist II	\$ 83
Staff Cultural Resource Specialist III	\$ 75
Cultural Resource Technician	\$ 65
Architectural Historian I	\$ 130
Architectural Historian II	\$ 113
Architectural Historian III	\$ 94
Word Processing/Editor	\$ 114
Administrative Staff	\$ 95
Clerical Staff	\$ 81

#### Additional Expenses

Vehicle mileage: IRS rates

Off-Road Charge: \$30/day

Field Equipment: \$10/day

Black and white copies:  
8.5" x 11" at \$0.15 each

Color copies:  
8.5" x 11" at \$0.30 each  
Large-format plots: \$2 square foot

GPS Rental: \$125/day

Cultural Resource Data Collector:  
\$50/day

Other direct expenses: Cost + 8%

Subcontractors: Cost + 8%

*\* Expert Testimony will be billed at 1.5 times standard billing rate/hour*

**ILLINGWORTH & RODKIN, INC.**  
**Acoustics • Air Quality**

429 E Cotati Ave  
Cotati, CA 94931

Tel: 707-794-0400  
www.Illingworthrodkin.com

Fax: 707-794-0405  
illro@illingworthrodkin.com

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**2024 HOURLY BILLING RATES**

Our fees are based on the following schedule of hourly rates:

Principal	\$240/hour
Senior Consultant	\$215/hour
Consultant	\$195/hour
Staff Consultant	\$175/hour
Technical/Admin Support	\$125/hour

Rates are subject to change on an annual basis. Document reproduction and shipping at cost. Mileage at IRS allowable rate; currently \$0.67.

**INSURANCE COVERAGE**

GENERAL LIABILITY in the amount of \$2,000,000 per occurrence/ \$4,000,000 aggregate.

WORKERS COMPENSATION covering our own employees in the amount of \$1,000,000 per occurrence.

AUTO (OWNED & NON OWNED) covering personal injury or death and property damage in the amount of \$1,000,000 per claim.

PROFESSIONAL LIABILITY in the amount of \$2,000,000 per claim and \$2,000,000 annual aggregate. Limitation of Liability. To the maximum extent permitted by law, Illingworth & Rodkin, Inc. requests that the Client agrees to limit Illingworth & Rodkin, Inc.'s liability for Client damages to the sum of \$250,000 or our fee, whichever is greater. This limitation shall apply regardless of the cause or legal theory asserted.

UMBRELLA LIABILITY in the amount of \$2,000,000 per occurrence and aggregate.

Certificates of insurance will be issued upon request.

**INVOICING AND PAYMENTS**

I&R submits monthly progress billing invoices by the 15th of each month, for the prior month's services. Invoices are submitted directly via email in pdf format, to the email address provided by the client. *Special invoicing requirements may result in administrative costs, billed at a rate of \$125/hour, in addition to the proposed budget.*

I&R accepts payment in the form of cash, paper check, or credit card. *I&R does not accept ACH/Electronic payments, or any other form of payment via 3rd party vendors or client portals.*



### **2024 Ridgeview Data Collection Hourly Rate Summary**

<b>Title/Classification</b>	<b>Responsibilities</b>	<b>Rate/Hr.</b>
Principal	Project management and quality control	\$106
QC/Report Technician	Report preparation and quality control	\$76
Project Manager	Project Management	\$82
Field Technician	On-site data collection	\$64
Data Analysis Tech	Computer analysis of video and data compilation	\$64

Reimbursable expenses are included in hourly rates, but anything out of the ordinary will be reimbursed at actual cost and approved in advance.

Mileage outside of the Denver area is billed at \$0.585 per mile.

Sub-consultant markups will be at a rate of 2.9, if needed.

**CLANTON & ASSOCIATES**

LIGHTING DESIGN AND ENGINEERING

<b>Clanton &amp; Associates 2024 Q1 On-Call Titles &amp; Rates*</b>	
<b>Title</b>	<b>Hourly Rates</b>
Chief Executive Officer	\$ 410
President	\$ 395
Principal	\$ 295
Associate	\$ 280
Business Development Manager	\$ 260
Senior Engineer II	\$ 240
Senior Engineer I	\$ 225
Engineer II	\$ 190
Engineer I	\$ 170
Senior Designer II	\$ 255
Senior Designer I	\$ 195
Designer II	\$ 170
Designer I	\$ 160
Intern	\$ 125
Production Manager	\$ 245
Senior CADD Technician	\$ 160
CADD Technician	\$ 130
Marketing Manager	\$ 120
Office Manager	\$ 120

\*Rates are subject to change at the discretion of Clanton & Associates, Inc.



5975 S. Quebec Street, Suite 200  
 Centennial, CO 80111  
 PH: (303) 773-1605  
 FX: (303) 773-3297  
 HCLengineering.com

### STANDARD BILLING RATE SCHEDULE 2024

Jan 1, 2024 to December 31, 2024

PERSONNEL CLASSIFICATION	BILLING RATE / HOUR
Principal	\$225.00
Director of Structural Engineering	\$205.00
Director of Civil Engineering	\$205.00
Director of Surveying and Mapping	\$205.00
Director of Architecture	\$205.00
Senior Project Manager (Civil, Survey, Structural, Architecture)	\$185.00
Project Manager (Civil, Survey, Structural, Architecture)	\$175.00
SUE Manager	\$180.00
BIM Manager	\$140.00
Project Architect	\$155.00
Architecture Staff I	\$100.00
Senior Project Engineer	\$165.00
Project Engineer	\$145.00
Design Engineer II	\$125.00
Design Engineer I	\$110.00
Senior Project Surveyor	\$150.00
Project Surveyor	\$135.00
Field Coordinator	\$145.00
Senior CAD Technician	\$130.00
CAD Technician	\$115.00
Two-man crew – Party Chief	\$150.00
Two-man crew –Instrument Operator	\$80.00
One-man crew – Party Chief	\$150.00
Utility Locator	\$125.00
Senior Construction Project Surveyor	\$130.00
UAV Pilot	\$125.00
Senior Construction Inspector	\$125.00
Construction Inspector	\$105.00
Engineering Intern	\$65.00
Administrative	\$105.00

**Goodbee & Associates, Inc.**  
**Fiscal Year 2024**

<b>Personnel Classification</b>	<b>Rate per hour</b>
President	\$185
Principal	\$185
Landscape Architect (Principal)	\$175
Landscape Architect III	\$150
Landscape Architect II	\$130
Landscape Architect I	\$120
Project Manager IV	\$170
Project Manager III	\$150
Project Manager II	\$140
Project Manager I	\$130
Designer III	\$120
Designer II	\$110
Designer I	\$100
CAD II	\$90
CAD I	\$80
SUE Field Manager	\$140
SUE Technician III	\$130
SUE Technician II	\$110
SUE Technician I	\$90
Survey Manager	\$145
Survey Party Chief	\$130
Intern II	\$80
Intern I	\$70
Administrator	\$110
Administrative Assistant	\$80

**Reimbursable Expenses**

<b>Item</b>	<b>Rate</b>
Mileage <sup>1</sup>	\$0.67 per mile
Per Diem <sup>1</sup>	Per current GSA county rate
Lodging <sup>1</sup>	Per current GSA county rate
Utility Designating Equipment & Supplies	\$190 per day
Survey Equipment	\$100 per day
Ground Penetrating Radar	\$70 per day
Vendor/subconsultant survey, traffic control, vacuum excavation & restoration <sup>2</sup>	\$ at cost
Plan production/copies (8.5" x 11" and 11"x17")	\$ at cost (if outsourced)

1. Rate per current IRS or approved GSA/Agency/Client rates
2. Subconsultant and vendor provided services are estimated and billed at-cost



**OV Consulting 2024 Billing Rates (April 2, 2024)**

<b>Title/Classification</b>	<b>Responsibilities</b>	<b>Rate/Hr.</b>
Principal	Project Management, Transportation Management, Mobility Planning, Design, Strategic Outreach	\$215
Project Manager	Project Management, Transportation & Urban Planning, Transportation Engineering	\$175
Senior Engineer	Transportation & Urban Engineering	\$175
Engineer II	Transportation & Urban Engineering	\$150
Engineer I	Transportation & Urban Engineering	\$125
Senior Planner	Transportation & Urban Planning	\$145
Planner II	Transportation & Urban Planning	\$130
Planner I	Transportation & Urban Planning	\$120
Planning Analyst	Transportation & Urban Planning Analysis	\$105
Outreach Manager	Communication and Outreach Management	\$175
Senior Outreach Specialist	Communication and Outreach	\$145
Outreach Specialist II	Communication and Outreach	\$125
Outreach Specialist I	Communication and Outreach	\$115
Outreach Analyst	Communication and Outreach	\$95
GIS Analyst	GIS, Data Review	\$105
Graphic Designer	Graphic design, meeting materials, web-based materials	\$95
CAD Technician	CAD Drafting	\$95
Clerical/Administrative	Word processing & administrative organization	\$85
Data Collection Technician	Collect field data	\$50
Intern	Varying support tasks	\$50





### Canyon Engineering Group 2024 Hourly Rates

Employee's Classification	2024 Direct Hourly Rate
Principal Project Engineer/Project Manager	\$ 185.00
Project Manager	\$ 152.00
Project Engineer	\$ 125.00
Civil Engineering Associate (EIT)	\$ 106.00
Construction Inspector	\$ 97.00
Administration	\$ 70.00

# Eugene Lynne

Land Surveying & Civil Engineering Services

[ahildebrand@eugenelynne.com](mailto:ahildebrand@eugenelynne.com)

(720) 361-2475

## 2024 Fee Schedule

### Hourly Rate

Project Principal	\$170
Professional Engineer	\$160
Professional Land Surveyor	\$155
Project Surveyor	\$120
Field Crew (1 person with equipment)	\$145
Field Crew (2 person with equipment)	\$185
Scan Crew (2 person with equipment) *	\$210
Engineering Technician	\$105
Surveying Technician II	\$100
Surveying Technician I	\$95

\*Excluding Scanner Rental

## Reimbursable Expenses

Vehicle Mileage	IRS Std Rate
Record Documents	Cost

**GEOCAL****Fee Schedule, January 2024**

Page 1 of 1

<b>PERSONNEL FEES</b>		<b>Aggregate Testing (continued)</b>	
Principal Engineer, per hour	\$ 250.00	Magnesium Sulfate Soundness (5 cycles), per test	
Project Manager, per hour	\$ 200.00	ASTM C 88 Coarse or Fine Aggregate	\$ 368.00
Senior Engineer or Scientist, per hour	\$ 175.00	Soundness Test for Filter Rock (20 cycles), per test	\$ 368.00
Project Engineer or Scientist, per hour	\$ 136.00	Specific Gravity ASTM C 127/C 128, per test	\$ 105.00
Staff Engineer/ Scientist	\$ 126.00	Organic Impurities: ASTM C 40 Fine Aggregate	\$ 58.00
Construction Manager/Construction Engineer	\$ 158.00	Friable Particles: ASTM C 142	\$ 63.00
Senior Inspector, Structural Steel Inspection	\$ 142.00	Lightweight Pieces: ASTM C 123	\$ 63.00
Junior Inspector, Civil Inspection, per hour	\$ 120.00	Soft Particles: ASTM C 851 Coarse Aggregate	\$ 53.00
Field Eng, Geologist, Drilling Supervision, per hour	\$ 105.00	Sand Equivalent: AASHTO T-17/ASTM D 2419	\$ 90.00
Materials Testing Operations Manager, per hour	\$ 142.00	Fractured Faces CP-45 Coarse Aggregate	\$ 63.00
Senior Materials Technician, per hour	\$ 105.00	Flat and Elongated Particles Coarse Aggregate	\$ 63.00
Field or Laboratory Materials Technician, per hour	\$ 84.00	Moisture Content ASTM C 566	\$ 32.00
Laboratory Manager, per hour	\$ 105.00	Effective Size and Uniformity Coefficient	\$ 26.00
Graphics/Cadd, per hour	\$ 86.00	Void Content of fine aggregate	\$ 58.00
Clerical, per hour	\$ 75.00	Micro-Deval Abrasion	\$ 263.00
	\$ -	Alkali Reactivity ASTM C1260	\$ 525.00
	\$ -	Bulk Density ("Unit Weight") ASTM C29/AASHTO T19	\$ 105.00
	\$ -		
<b>DRILL RIG &amp; MISCELLANEOUS EXPENSES</b>	\$ -	<b>CONCRETE LABORATORY TESTING</b>	
Solid Stem Auger per hour, truck mounted	\$ 225.00	Compression Tests, cost per cylinder	\$ 37.00
Hollow Stem Auger 4 to 6-inch per hour, truck mounted	\$ 275.00	Ship-in Cylinders (made by others), per cylinder	\$ 53.00
Diamond Core Drilling, ATV, Odex, other type		Flexural Test (Beams), cost per beam	\$ 53.00
Vehicle Charge, per mile	\$ 0.65	Maturity meter, cost per probe	\$ 100.00
Out-of-town living expenses	1.10 X Cost	Modulus of Elasticity Test ASTM C 469	\$ 184.00
Outside services, equipment rentals, supplies, etc.	1.10 X Cost	Setting Time Test ASTM C 403	\$ 210.00
		Shrinkage Test ASTM C 157, set of 3	\$ 263.00
<b>SOILS LABORATORY TESTING</b>		Concrete Mix Designs (aggregate tests separate)	
Swell/Consolidation (ASTM D 4546), per test	\$ 121.00	6 Cylinders (full design)	\$ 2,625.00
Swell/Consolidation (remolded, ASTM 4546), per test	\$ 163.00	6 Beams (full design)	\$ 3,045.00
One Dimension Time Consolidation (ASTM D 2435), per test	\$ 840.00	Concrete Coring (per hour):	\$ 105.00
Soil Preparation time, per hour	\$ 90.00	Trimming, Length, Unit Weight, Compression, each	\$ 158.00
Gradation Analysis down to No. 200 sieve (ASTM D 422), per test	\$ 100.00	Special Laboratory Tests, per hour	\$ 105.00
Percent minus No. 200 sieve (ASTM D 1140), per test	\$ 100.00	Concrete steel pull test (tie-bars), per hour	\$ 105.00
Hydrometer Analysis (ASTM D 422), per test	\$ 190.00		
Plastic and Liquid Limits (ASTM D 4318), per sample	\$ 90.00	<b>ASPHALT LABORATORY TESTING</b>	
Natural Moisture Content & Dry Unit Weight (ASTM D 2216)	\$ 48.00	Superpave Mix Design (4 pts, aggregate tests separate)	\$ 3,255.00
Moisture content only	\$ 21.00	(includes Hveem stability, Rice, VMA, total voids)	
Specific Gravity (ASTM D 854), per test	\$ 115.00	Superpave mix verification	\$ 2,625.00
Permeability Test - Undisturbed (ASTM D 2434), per sample - triaxial	\$ 525.00	Superpave Volumetric Properties, Production Sample	\$ 475.00
Permeability Test - Remolded (ASTM D 2434), per sample - triaxial	\$ 525.00	(3 specimens, AC separate)	
Unconfined Compression on trimmed rock core, per test	\$ 158.00	Hveem Stability (with production samples tests)	\$ 184.00
Unconfined Compression (ASTM D 2166), soil, per test	\$ 105.00	Without production sample tests	\$ 340.00
Triaxial Testing (ASTM D 2850):	\$ -	Marshall Mix Design (4 points) includes bulk specific gravity, flow, stability, Rice	\$ 2,415.00
Unconsolidated - Undrained, per point (Quick Test)	\$ 368.00	Marshall Properties (3 Specimens), ASTM D 6926 & 6927	\$ 420.00
Consolidated - undrained, per point (R-Test)	\$ 394.00	Includes Unit Weight, Stability and Flow	
Consolidated - drained, per point (S-Test)	\$ 473.00	Maximum Theoretical Specific Gravity (Rice Value)	\$ 158.00
Direct Shear Tests (ASTM D 3080)	\$ -	per test, ASTM D 2041, AASHTO T-209, CP-51	
Consolidated - Undrained, 3-point	\$ 420.00	Asphalt Content (ignition/nuclear) Calibration	\$ 546.00
Cohesive Soils, 20% or greater fines, 3-point test	\$ 1,050.00	AC Content w/ Ignition or Nuclear Oven, each	\$ 158.00
Chloride	\$ 63.00	Asphalt Coring per hour	\$ 105.00
Sulfide Concentration	\$ 63.00	Bulk Density and Thickness (cores), cost per core	\$ 53.00
California Bearing Ratio (ASTM D 1883), 3-point, Proctor separate	\$ 550.00	Lottman, per test	\$ 483.00
Resistance R-Value (ASTM D 2844), 3-point	\$ 500.00		
Water Soluble Sulfates, per sample	\$ 63.00	<b>MASONRY UNITS LABORATORY TESTING</b>	
pH Level	\$ 63.00	Bricks: compressive strength ASTM C67	\$ 84.00
Redox Potential	\$ 63.00	Absorption: ASTM C67	\$ 95.00
Electrical Resistivity (laboratory)	\$ 53.00	Freeze-Thaw ASTM C 67 per set	\$ 735.00
Standard Proctor (ASTM D 698/AASHTO T-99), per sample	\$ 168.00	Initial Rate of Absorption ASTM C 67 each test	\$ 79.00
Modified Proctor (ASTM D 1557/AASHTO T-180), per sample	\$ 200.00	Masonry Units - Compressive Strength ASTM C 140	\$ 225.00
Check Point on Modified or Standard Proctor, per sample	\$ 68.00	Hollow Block, each block	\$ 95.00
Relative Density (ASTM D 4253 and 4254), per sample	\$ 315.00	Grout Filled Block, each block	\$ 126.00
Unconfined Compressive Strength - Chemically Treated Soils	\$ 158.00	Masonry Prisms - Compressive Strengths	\$ 225.00
Moisture/Density Relationship - Chemically Treated Soils	\$ 189.00	Block, Hollow Prism, cost per prism	\$ 158.00
<b>AGGREGATE LABORATORY TESTING</b>		Block, Grout Filled (up to 8" width), each block	\$ 184.00
Sieve Analysis		Block, Grout Filled (over 8" width), each block	\$ 235.00
ASTM C 136 Coarse or Fine Aggregate per test	\$ 95.00	Mortar Cubes Compressive Strength, each cube	\$ 42.00
ASTM C 117 Percent Passing #200 sieve	\$ 95.00	Grout (cast in block), each core extraction	\$ 84.00
Large Pit Run Samples, Ballast, cost per test	\$ 126.00	Grout Core Compressive Strength, each core	\$ 53.00
Los Angeles Abrasion Test each	\$ -	Grout Cubes Compressive Strength, each cube	\$ 42.00
ASTM C 131 (1 1/2" maximum)	\$ 290.00		
ASTM C 535 (3" maximum)	\$ 290.00		
Sodium Sulfate Soundness, ASTM C 88	\$ 340.00		



## EXHIBIT B

### INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 12 of this Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Consultant involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate, and \$1,000,000 umbrella. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to, to the extent applicable:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. limited contractual;\*
  - d. broad form property damages; and
  - e. medical payments.

**\*This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement.**
3. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of operation or use of an automobile.**
4. If applicable: Consultant shall secure and maintain a third party fidelity bond in favor of the Town covering the Consultant and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the Town. Such bond shall protect the Town against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the Town. Said bond shall be in an amount as determined by the Town, from a surety acceptable to the Town.
5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.

6. Professional liability insurance in the minimum amount of \$1,000,000.00 each occurrence; \$2,000,000.00 aggregate.

**EXHIBIT B-1**  
**CERTIFICATE(S) OF INSURANCE**

ACORD™

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

5/21/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> USI Insurance Services, LLC 4600 S. Ulster Street, Suite 1200 Denver, CO 80237 800 873-8500	CONTACT NAME: PHONE (A/C No, Ext): <b>800 873-8500</b>	FAX (A/C, No):	
	E-MAIL ADDRESS: <b>den.certificate@usi.com</b>		
<b>INSURED</b> Muller Engineering Company, Inc. 7245 W Alaska Drive, Suite 300 Lakewood, CO 80226-3118	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Travelers Indemnity Company		25658
	INSURER B : Travelers Property Cas. Co. of America		25674
	INSURER C : Travelers Indemnity Co of America		25666
	INSURER D : XL Specialty Insurance Company		37885
	INSURER E :		
INSURER F :			

**COVERAGES**

**CERTIFICATE NUMBER:**

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	6802P924447	03/11/2024	03/11/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	X	BA4R037733	03/11/2024	03/11/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10000	X	X	CUP02P928502	03/11/2024	03/11/2025	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	UB0S190606	03/11/2024	03/11/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	<input checked="" type="checkbox"/> Professional Liab Incl Pollution Claims Made		X	DPR5025846	03/11/2024	03/11/2025	\$4,000,000 per claim \$6,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability; Designated Insured under Automobile Liability; and Additional Insured under Umbrella / Excess Liability but only with respect to liability arising out of the Named Insured's work performed on behalf of the certificate holder and owner. (See Attached Descriptions)

**CERTIFICATE HOLDER**

**CANCELLATION**

Town of Timnath 4750 Signal Tree Drive Timnath, CO 80547	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

## DESCRIPTIONS (Continued from Page 1)

**The General Liability, Automobile Liability and Umbrella/Excess insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella / Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability.**

**Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.**

**RE: On-Call Traffic Engineering Services.**



**EXHIBIT C**

**CERTIFICATE OF GOOD STANDING WITH COLORADO SECRETARY OF STATE**

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

MULLER ENGINEERING COMPANY, INC.

is a

Corporation

formed or registered on 03/19/1980 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871395586 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 05/16/2024 that have been posted, and by documents delivered to this office electronically through 05/20/2024 @ 16:17:26 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 05/20/2024 @ 16:17:26 in accordance with applicable law. This certificate is assigned Confirmation Number 16052213 .



A handwritten signature in blue ink that reads "Jena Griswold".

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*

**PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING (WORK ORDERS) WITH KELLAR ENGINEERING LLC**

This PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING SERVICES, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 11<sup>th</sup> day of June , 2024, by and between THE TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado (the “Town”), and KELLAR ENGINEERING LLC, a Missouri Limited Liability Company (the “Consultant”). The Town and the Consultant are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS**

WHEREAS, the Town is a Home Rule Municipality, authorized to provide certain services within its corporate boundaries;

WHEREAS, from time to time, the Town has need of contracted professional engineering services, for purposes which may include without limitation, design, bidding and project review/management of discrete Town projects and review of development permit applications and plans; and

WHEREAS, the Consultant employs certified professional engineers and is in good standing with the Missouri Secretary of State (*see Exhibit C*); and

WHEREAS, the Town desires to engage the Consultant to render the services described in this Agreement, pursuant to Work Orders approved in writing by both parties and attached to this contract; and

WHEREAS, the Town is authorized to contract for the provision of such services pursuant to §§ 31-15-101, *et seq.*, C.R.S.;

WHEREAS, the Consultant has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**TERMS AND CONDITIONS**

1. **SCOPE OF SERVICES.** The Consultant shall provide engineering services as set forth in Work Orders approved by both parties in writing (“Work Orders”), and all of Consultant’s work under such Work Orders shall be collectively referred to as the “Services”. All Services shall be performed: (a) in a professional manner, to the satisfaction of the Town, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the Town; (b) within the time period and pursuant to the requirements of said Work Order and (c) using reasonable efforts to minimize any annoyance, interference or disruption to

the residents, tenants, occupants and invitees within the Town. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in a Work Order, the terms in the body of this Agreement shall govern. Consultant shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the Town in any manner whatsoever, except to the extent specifically provided in this Agreement (including Work Orders) or through other authorization expressly delegated to Consultant or authorized by the Town through the Town Council.

2. TERM/RENEWAL. This Agreement shall be effective as of the dated date hereof and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; (ii) one year after execution of this Agreement. Notwithstanding the foregoing, unless terminated, or unless the Town determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for up to four (4) additional one-year terms commencing June 10<sup>th</sup> of the next succeeding year. Any payment obligations of the Town in years other than the year of signing are pursuant to budget and appropriation and the Town can cancel this contract without penalties in the event of non-appropriation.

3. WORK ORDERS. The Town and the Consultant may agree for the Consultant to provide specific work, subject to the mutual agreement of the Consultant and the Town pursuant to a written Work Order, in substantially the form attached hereto as **Exhibit A**, executed by an authorized representative of each Party. Work Orders shall be sequentially numbered and attached to this Agreement and automatically incorporated herein upon signature by both Parties. Each Work Order shall set forth the required date for completion or a schedule for various tasks, shall contain a not-to-exceed cost for the work, and shall state that the Town has appropriated funds sufficient to cover the additional compensable amount. The terms and conditions of this Agreement relating to Services shall apply to any work under Work Orders.

4. GENERAL PERFORMANCE STANDARDS

a. The Consultant represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Consultant's performance of the Services does not meet this standard, the Consultant shall, at the Town's request, re-perform the Services not meeting this standard without additional compensation.

b. The Consultant shall use reasonable commercial efforts to perform and complete the Services in a timely manner. If performance of the Services by the Consultant is delayed due to factors beyond the Consultant's reasonable control, or if conditions or the scope or type of services are expected to change, Consultant shall give prompt notice to the Town of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Consultant agrees that it has and will continue to comply with all Laws while providing Services under this Agreement. "Laws" means: (i) federal, state, county and local or municipal body or agency laws, statutes, ordinances and regulations; (ii) any licensing bonding, and permit requirements; (iii) any laws relating to storage, use or disposal of hazardous wastes, substances or materials; (iv) rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses; (v) regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970; (vi) Wage and Hour laws, Worker Compensation laws, and immigration laws.

e. The responsibilities and obligations of the Consultant under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, subconsultant or employee of the Town. Review, acceptance or approval by the Town of the Services performed or any documents prepared by the Consultant shall not relieve the Consultant of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be on a time and materials basis, based on the rate schedule set forth in **Exhibit A-1**, not to exceed the amount set forth in the Work Order for each project. The Consultant shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as expressly provided in a Work Order, unless said reimbursement or compensation is approved in writing by the Town in advance of incurring such expenses. Any direct reimbursable costs for materials and/or expenses will be reimbursable at the then current Consultant's accepted rate schedule, provided that the Consultant shall make a reasonable attempt to notify the Town of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Consultant shall provide the Town with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Consultant until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit A-2**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of this Agreement for Services performed in the prior month, and shall contain the following information:

i. An itemized statement of the Services performed, by Work Order and not to exceed the amount set forth in such Work Order.

ii. Any other reasonable information required by the Town to process payment of the invoice, including project and/or cost codes as provided in any applicable written Work Order.

7. TIME FOR PAYMENT. Payment for the Services shall be made by the Town within thirty (30) days of receipt of a timely, satisfactory and detailed invoice in the form required by Section 6, for that portion of the Services performed and not previously billed. In the event that the Town contests all or a portion of an invoice, the Town shall provide timely written notice of the dispute, pay the undisputed portion of the invoice, and hold the remainder of the amount due under the Invoice, pending dispute resolution.

Interest on late payments, if any, other than disputed amounts, shall be paid by the Town at the statutory rate. In the event a Town Council meeting is not scheduled in time to review payment of an invoice, the Town hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Town Council approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the Town's approved budget. Such payment shall require review and approval of each invoice by the Town Manager or applicable Department Head, as appropriate, subject to ratification at the next succeeding special or regular Town Council meeting.

8. INDEPENDENT CONTRACTOR. The Consultant is an independent contractor and nothing in this Agreement shall constitute or designate the Consultant or any of its employees or agents as employees or agents of the Town. The Consultant shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the Town, and shall be responsible for supervising its own employees or subcontractors. The Town is concerned only with the results to be obtained. The Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Consultant shall be responsible for its safety, and the safety of its employees, subcontractors, agents, and representatives. All personnel furnished by the Consultant will be deemed employees or sub-contractors of the Consultant and will not for any purpose be considered employees or agents of the Town, and the Consultant will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Consultant is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Consultant or some other entity other than the Town, and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

9. PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION: EMPLOYEE MEMBERSHIP. Consultant agrees that, concurrent with execution of this Agreement, Consultant will disclose to the Town the membership status of any of Consultant's employees that are members of the Colorado Public Employees' Retirement Association pursuant to §§ 24-51-301 *et*

*seq.*, C.R.S. Failure to meet this requirement shall be a material breach of this Agreement, and the Town's obligations to perform under this Agreement are specifically conditioned on Consultant's performance as required under this Section 10.

10. EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY. This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Consultant represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

11. CONSULTANT'S INSURANCE.

a. The Consultant shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the Town, its directors, officers, employees and agents is required for Commercial General Liability and Workers Compensation coverage. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the Town as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the Town may carry, and any insurance maintained by the Town shall be considered excess. The Town shall have the right to verify or confirm, at any time, all coverage, information or representations contained in this Agreement.

b. Prior to commencing any work under this Agreement, the Consultant shall provide the Town with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit B-1**. If the Consultant subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the Town and the Consultant; provided, however, that subcontractors of the Consultant shall not be required by the Town to provide coverage in excess of that which is required hereunder of the Consultant. If the coverage required expires during the term of this Agreement, the Consultant or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Consultant's failure to purchase the required insurance shall not serve to release it from any obligations contained in this Agreement; nor shall the purchase of the required insurance serve to limit the Consultant's liability under any provision in this Agreement. The Consultant shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. Any information deemed confidential by the Town and given to the Consultant by the Town, or developed by the Consultant as a result of the performance of a particular task, shall remain confidential. In addition, the Consultant shall hold in strict confidence, and shall not use in competition, any information which the Consultant becomes aware

of under or by virtue of this Agreement which the Town deems confidential, or which the Town has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the interests of the Town. Confidential information shall not include, however, any information which is: (i) generally known to the public at the time provided to the Consultant (ii) provided to the Consultant by a person or entity not bound by confidentiality to the Town; or (iii) independently developed by the Consultant without use of the Town's confidential information. During the performance of this Agreement, if the Consultant is notified that certain information is to be considered confidential, the Consultant agrees to enter into a confidentiality agreement in a form reasonably acceptable to the Town and the Consultant. The Consultant agrees that any of its employees, agents or subcontractors with access to any information designated thereunder as confidential information of the Town shall agree to be bound by the terms of such confidentiality agreement.

b. Personal Identifying Information. During the performance of this Agreement, the Town may disclosure Personal Identifying Information to the Consultant. "Personal Identifying Information" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in § 24-73-103(1)(a), C.R.S.; an employer, student, or military identification number; or a financial transaction device, as defined in § 18-5-701(3), C.R.S. In compliance with § 24-73-102, C.R.S., the Consultant agrees to implement and maintain reasonable security procedures and practices that are: (i) appropriate to the nature of the Personal Identifying Information disclosed to the Consultant; and (ii) reasonably designed to help protect the Personal Identifying Information from unauthorized access, use, modification, disclosure, or destruction.

c. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the Town, the Consultant agrees to notify the Town of any conflicts of interest known to the Consultant that impact the Consultant's provision of Services to the Town. Consultants providing any development review services to the Town while also working for a developer on development project(s) within the Timnath Growth Management Area (GMA) will be considered as a potential conflict of interest which must be disclosed to the Town. In such event, the Town may require the Consultant to cease providing any development review services for the Town until completion of the other development project(s).

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Consultant pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the Town under all circumstances, upon payment to the Consultant of the invoices representing the work by which such materials were produced. At the Town's request, the Consultant will provide the Town with all documents produced by or on behalf of the Consultant pursuant to this Agreement. The Consultant shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services for a period of two years after termination of this Agreement, shall make them available for the Town's use and shall provide such copies to the Town upon request at no cost.



14. LIENS AND ENCUMBRANCES. The Consultant shall not have any right or interest in any Town assets, or any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in this Agreement assuming the Consultant has been paid for all services rendered. The Consultant, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the Town's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Consultant shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Consultant to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Consultant further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the Town. The Consultant will provide indemnification against all such liens or verified statements of claim filed with the Town for labor performed, materials supplied or used by the Consultant and/or any other person in connection with the Services undertaken by the Consultant, in accordance with Section 16, below.

15. INDEMNIFICATION.

Consultant shall indemnify and save and hold harmless the Town, its councilmembers, officers, agents, contractors, and employees from and against: (1) damages, including but not limited to, loss of use of property or injuries to or death of any person or persons (including but not limited to property and officers and employees of the Town) and (2) claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees costs), causes of action, or other legal, equitable or administrative proceedings, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers' compensation which is incurred by the Town but only to the extent caused by or arising out of the errors and omissions, willful misconduct, criminal, tortious or negligent actions or omissions of Consultant in connection with Consultant's operations or performance herewith or Consultant's use or occupancy of real or personal property hereunder, including such acts or omissions of employees, agents, subcontractors or representatives of Consultant; provided however, that Consultant need not indemnify the Town or its councilmembers, officers, agents and employees from damages proximately caused by the negligence of the Town's officers, agents and employees.

This indemnity coverage shall also cover the Town's defense costs in the event that the Town, in its sole discretion, elects to provide its own defense. The Town retains the right to disapprove counsel, if any, selected by the Consultant to fulfill the foregoing defense indemnity obligation. In the event the Consultant fails to assume the defense of any claims under this Section 16 within fifteen days after notice from the Town of the existence of such claim, the Town may assume the defense of the Claim with counsel of its own selection, and the Consultant will pay all reasonable expenses of such counsel.

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of Consultant under the terms of this indemnification obligation. Consultant shall obtain, at its own expense, any additional insurance that Consultant deems necessary for the Town's

protection in the performance of this Agreement. This indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Consultant shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the Town. Any attempted assignment of this Agreement in whole or in part with respect to which the Town has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUBCONTRACTORS. Consultant shall not subcontract any Services without prior written approval by the Town. Consultant is solely and fully responsible to the Town for the performance of all Services in accordance with the terms set forth in this Agreement, whether performed by the Consultant or a subcontractor engaged by the Consultant, and neither the Town's approval of any subcontractor, suppliers, or materialman, nor the failure of performance thereof by such persons or entities, will relieve, release, or affect in any manner the Consultant's duties, liabilities, or obligations under this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the Town.

18. TERMINATION. This Agreement may be terminated for cause or convenience by the Town by giving the Consultant thirty (30) days' prior written notice. Each Party may terminate this Agreement for cause at any time upon such thirty (30) day written notice to the other Party, setting forth the cause for termination, and the notified Party's failure to cure the default within the cure period after notice of default set forth in Section 19. If this Agreement is terminated, the Consultant shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. In the event of termination of this Agreement, the Consultant shall cooperate with the Town to ensure a timely and efficient transition of all work and work product to the Town or its designees. All time, fees and costs associated with such transition shall not be billed by the Consultant to the Town, unless the Town terminates the Agreement for convenience.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have ten days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such ten-day period and the defaulting party gives written notice to the non-defaulting party within such ten-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the ten-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement with thirty days advance notice and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice required under this Agreement must be in writing, and may be given by hand-delivery, sent via nationally recognized overnight carrier service, or sent by

certified mail, return receipt requested. The notice will be deemed to have been given upon receipt, in the case of hand-delivery or certified mail, or one business day after being deposited with a nationally recognized overnight air courier service. Any Party may update its address by giving written notice to the other Party as provided in this Section 20. Such notices or communications will be given to the parties at their addresses set forth below:

To the Town:           Town of Timnath  
                              Attn: Public Works Director  
                              4750 Signal Tree Drive  
                              Timnath, CO 80547  
                              970-224-3211 (phone)  
                              970-224-3217 (fax)

With copy to:         Timnath Town Attorney  
                              Attn: Carolyn Steffl  
                              4750 Signal Tree Drive  
                              Timnath, Colorado 80547  
                              (970) 224-3211 (phone)  
                              (970) 224-3217 (fax)

Consultant:           Kellar Engineering LLC  
                              Attn: Sean Kellar  
                              14200 Laquinta Drive  
                              Grandview, MO 64030  
                              (970) 219-1602 (phone)

21. AUDITS. The Town shall have the right to audit, with reasonable notice, any of the Consultant's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records), and the Consultant agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two years after termination of the Agreement and to make the same available to the Town at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Consultant and the Town.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such

waiver constitute a continuing waiver unless otherwise expressly provided in this Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW.

a. Venue. Venue for all actions arising from this Agreement shall be in the District Court in and for the County where the project will be constructed or in Larimer County. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the Town's request, the Consultant shall carry on its duties and obligations under this Agreement during any legal proceedings and the Town shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

b. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles.

c. Litigation. At the Town's request, the Consultant will consent to being joined in litigation between the Town and third parties related to the Work or this Agreement, but such consent shall not be construed as an admission of fault or liability. The Consultant shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the Town to furnish timely information or to approve or disapprove of Consultant's Services in a timely manner.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. Pursuant to § 24-91-103.6(2), C.R.S., the Parties hereby agree that the amount of money appropriated by the Town for the Services is equal to the compensation amount set forth in any Work Orders attached at the time of execution of this Agreement. This Agreement shall not be modified to require the Consultant to perform additional compensable work unless the Town has made lawful appropriations to cover the costs of the additional work. The Town does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the Town pursuant to this Agreement requiring budgeting and appropriation of funds in future years are subject to annual budgeting and appropriations.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Town, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available to the Town pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS AND PRIORITY. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement. In the event of a conflict between the terms of the body of this Agreement and the Exhibits attached to this Agreement, the terms of the body of this Agreement shall control. Any waiver of liability or

warranty or requirement for payment of attorneys' fees by the Town contained in any Exhibit shall not be binding against the Town.

30. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the intention being that such portions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202 *et seq.*, C.R.S.

33. TAX EXEMPT STATUS. The Town is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the Town is exempt shall not be included in any invoices submitted to the Town. The Town shall, upon request, furnish Consultant with a copy of its certificate of tax exemption. Consultant and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase materials tax free. The Consultant and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

34. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

TOWN:

TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado

DocuSigned by:

*Aaron Adams*

Aaron Adams, Town Manager

ATTEST:

DocuSigned by:

*Milissa Peters Garcia*

Milissa Peters-Garcia, CMC Town Clerk

APPROVED AS TO FORM:

DocuSigned by:

*Carolyn Steffl*

Carolyn R. Steffl, Town Attorney

***Town's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Kellar Engineering LLC, dated June 11, 2024***

KELLAR ENGINEERING:  
A Missouri Limited Liability Company

DocuSigned by:

*Sean Kellar*

2DF1962BEA8E49D...

Printed Name: Sean Kellar

Title: President

***Consultant's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Kellar Engineering LLC, dated June 11, 2024***

**EXHIBIT A**  
**FORM OF WORK ORDER**



**EXHIBIT A  
WORK ORDER NUMBER \_\_\_\_\_**

PURSUANT TO PROFESSIONAL SERVICES MASTER AGREEMENT FOR  
\_\_\_\_\_ ENGINEERING BETWEEN  
THE TOWN OF TIMNATH  
AND  
***PROFESSIONAL'S NAME***

**MASTER AGREEMENT NAME:** \_\_\_\_\_

**MASTER AGREEMENT EFFECTIVE DATE:** \_\_\_\_\_

**PROJECT TITLE:** \_\_\_\_\_

**WORK ORDER COMMENCEMENT DATE:** \_\_\_\_\_

**WORK ORDER COMPLETION DATE:** \_\_\_\_\_

**NOT-TO-EXCEED FEE FOR THIS WORK ORDER:** (time and reimbursable direct costs):  
\_\_\_\_\_

**PROJECT DESCRIPTION/SCOPE OF SERVICES:** \_\_\_\_\_

CONSULTANT agrees to perform the services identified above and on the attached forms in accordance with the terms and conditions contained herein and in the Professional Services Master Agreement for \_\_\_\_\_ Engineering (the "Master Agreement") between the parties. In the event of a conflict between or ambiguity in the terms of the Master Agreement and this Work Order (including the attached forms) the Master Agreement shall control.

The attached forms consisting of ( ) page(s) are hereby accepted and incorporated herein, by this reference, and Notice to Proceed is hereby given after all parties have signed this document.

The Town affirms that it has appropriated sufficient funds to cover the additional work set forth in this Work Order, up to the not to exceed amount set forth above, in addition to any work under Master Agreement or prior Work Orders thereto; and that such funds shall be available prior to performance of the additional work.

CONSULTANT: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

TOWN: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

ATTEST: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

**EXHIBIT A-1**  
**CONSULTANT'S COMPLETED W-9**

Form **W-9**  
 (Rev. December 2014)  
 Department of the Treasury  
 Internal Revenue Service

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

<b>Print or type See Specific Instructions on page 2.</b>	<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <b>Sean K. Kellar</b>	
	<b>2</b> Business name/disregarded entity name, if different from above <b>Kellar Engineering LLC</b>	
	<b>3</b> Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ <b>S</b> <small>Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.</small> <input type="checkbox"/> Other (see instructions) ▶	
	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>	
	<b>5</b> Address (number, street, and apt. or suite no.) <b>14200 Laquinta Drive</b>	<b>Requester's name and address (optional)</b>
	<b>6</b> City, state, and ZIP code <b>Grandview, MO 64030</b>	
	<b>7</b> List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>									
<b>or</b>									
<b>Employer identification number</b>									
8	1	-	3	4	1	0	2	3	4

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶ <b>7/3/2023</b>
------------------	----------------------------	------------------------

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**EXHIBIT A-2**  
**Consultant's Rate Schedule**



## Billing Schedule – 2024

### A. Applicable Rates

<u>Category</u>	<u>Hourly Rate</u>
Professional Traffic Engineer	\$165.00
CAD Technician	\$100.00
Administrative Specialist	\$ 60.00

### B. Other Direct Costs

<u>Description</u>	<u>Cost</u>
8.5" x 11" Black and White Copies	\$0.20/each
8.5" x 11" Color Copies	\$1.25/each
11" x 17" Black and White Copies	\$0.40/each
11" x 17" Color Copies	\$2.50/each
Mailing	Actual postage cost
Supplies	Actual cost from vendor
Traffic Counts	Actual cost from vendor
Virtual Meetings/Conference Calls	Hourly Rate

## Sean Kellar

---

**From:** Eric Boivin <ericboivin@alltrafficdata.net>  
**Sent:** Thursday, May 30, 2024 9:52 AM  
**To:** Sean Kellar  
**Subject:** Re: Rates

TMC per intersection -\$500  
Adts-24hrs \$500 per location

Eric Boivin

---

**From:** Sean Kellar <skellar@kellarengineering.com>  
**Sent:** Thursday, May 30, 2024 9:43:54 AM  
**To:** Eric Boivin <ericboivin@alltrafficdata.net>  
**Subject:** Rates

Hi Eric,

Can you email me your standard rates for traffic counts in Timnath, CO? I got an on-call contract with Timnath and they want to know the rates for traffic counts.

Thanks!

**Sean Kellar, PE, PTOE**

970.219.1602  
skellar@kellarengineering.com

## EXHIBIT B

### INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 12 of this Agreement.

1. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate, and \$1,000,000 umbrella. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to, to the extent applicable:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. limited contractual;\*
  - d. broad form property damages; and
  - e. medical payments.

**\*This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement.**

2. This provision only applies to subconsultants that conduct site visits: Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of operation or use of an automobile.**
3. If applicable: Consultant shall secure and maintain a third party fidelity bond in favor of the Town covering the Consultant and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the Town. Such bond shall protect the Town against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the Town. Said bond shall be in an amount as determined by the Town, from a surety acceptable to the Town.
4. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.
5. Professional liability insurance in the minimum amount of \$1,000,000.00 each occurrence; \$2,000,000.00 aggregate.

**EXHIBIT B-1**  
**CERTIFICATE(S) OF INSURANCE**





# CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)  
05/22/2024

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

<b>PRODUCER</b> Hiscox Inc. 5 Concourse Parkway Suite 2150 Atlanta GA, 30328	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 844-357-0403      FAX (A/C, No): E-MAIL ADDRESS: contact@hiscox.com PRODUCER CUSTOMER ID:													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A : Hiscox Insurance Company Inc.</td> <td>10200</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Hiscox Insurance Company Inc.	10200	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :
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INSURER D :														
INSURER E :														
INSURER F :														
<b>INSURED</b> Kellar Engineering LLC 14200 laquinta dr Grandview, MO 64030														

**COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:**


LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
A	<input type="checkbox"/> PROPERTY	P102.191.528.1	07/31/2023	07/31/2024	<input type="checkbox"/> BUILDING	\$
	<input type="checkbox"/> CAUSES OF LOSS <input type="checkbox"/> DEDUCTIBLES				<input checked="" type="checkbox"/> PERSONAL PROPERTY	\$ 5,000
	<input type="checkbox"/> BASIC    BUILDING				<input type="checkbox"/> BUSINESS INCOME	\$
	<input type="checkbox"/> BROAD    CONTENTS				<input type="checkbox"/> EXTRA EXPENSE	\$
	<input checked="" type="checkbox"/> SPECIAL    \$ 500				<input type="checkbox"/> RENTAL VALUE	\$
	<input type="checkbox"/> EARTHQUAKE				<input type="checkbox"/> BLANKET BUILDING	\$
	<input type="checkbox"/> WIND				<input type="checkbox"/> BLANKET PERS PROP	\$
	<input type="checkbox"/> FLOOD				<input type="checkbox"/> BLANKET BLDG & PP	\$
						\$
						\$
	<b>INLAND MARINE</b>	TYPE OF POLICY			\$	
	<input type="checkbox"/> CAUSES OF LOSS				\$	
	<input type="checkbox"/> NAMED PERILS	POLICY NUMBER			\$	
	<input type="checkbox"/> CRIME				\$	
	TYPE OF POLICY				\$	
	<input type="checkbox"/> BOILER & MACHINERY / EQUIPMENT BREAKDOWN				\$	
					\$	
					\$	

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Town of Timnath, CO as additional insured

**CERTIFICATE HOLDER      CANCELLATION**

Town of Timnath, Colorado 4750 Signal Tree Drive Timnath, CO 80547	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/22/2024

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> Hiscox Inc. 5 Concourse Parkway Suite 2150 Atlanta GA, 30328	<b>CONTACT NAME:</b> PHONE (A/C, No. Ext): (888) 202-3007      FAX (A/C, No.): E-MAIL ADDRESS: contact@hiscox.com														
<b>INSURED</b> Kellar Engineering LLC 14200 laquinta dr Grandview, MO 64030	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Hiscox Insurance Company Inc</td> <td>10200</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Hiscox Insurance Company Inc	10200	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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**COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
		INSD	WVD						
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	Y		P102.191.528.1	07/31/2023	07/31/2024	EACH OCCURRENCE	\$ 1,000,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	
							MED EXP (Any one person)	\$ 5,000	
							PERSONAL & ADV INJURY	\$ 1,000,000	
							GENERAL AGGREGATE	\$ 2,000,000	
GEN'L AGGREGATE LIMIT APPLIES PER:							PRODUCTS - COMP/OP AGG	\$ S/T Gen. Agg.	
<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC							\$
OTHER:								\$	
<b>AUTOMOBILE LIABILITY</b>							COMBINED SINGLE LIMIT (Ea accident)	\$	
<input type="checkbox"/> ANY AUTO <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> HIRED AUTOS							BODILY INJURY (Per person)	\$	
							BODILY INJURY (Per accident)	\$	
							PROPERTY DAMAGE (Per accident)	\$	
								\$	
<b>UMBRELLA LIAB</b>							EACH OCCURRENCE	\$	
<input type="checkbox"/> OCCUR							AGGREGATE	\$	
<b>EXCESS LIAB</b>								\$	
<input type="checkbox"/> CLAIMS-MADE								\$	
DED      RETENTION \$								\$	
<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>							PER STATUTE	OTH-ER	
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N      N/A If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. EACH ACCIDENT	\$	
							E.L. DISEASE - EA EMPLOYEE	\$	
							E.L. DISEASE - POLICY LIMIT	\$	
A	Professional Liability	Y		P102.191.527.1	07/31/2023	07/31/2024	Each Claim: \$ 1,000,000 Aggregate: \$ 1,000,000		

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Town of Timnath, CO as additional insured

<b>CERTIFICATE HOLDER</b> Town of Timnath, Colorado 4750 Signal Tree Drive Timnath, CO 80547	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**EXHIBIT C**

**CERTIFICATE OF GOOD STANDING WITH MISSOURI SECRETARY OF STATE**

# STATE OF MISSOURI



**John R. Ashcroft**  
**Secretary of State**

**CORPORATION DIVISION**  
**CERTIFICATE OF GOOD STANDING**

I, JOHN R. ASHCROFT, Secretary of State of the STATE OF MISSOURI, do hereby certify that the records in my office and in my care and custody reveal that

*Kellar Engineering LLC*  
*LC001501438*

was created under the laws of this State on the 1st day of August, 2016, and is active, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 3rd day of August, 2023.

  
Secretary of State



Certification Number: CERT-08032023-0114

**PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING (WORK ORDERS) WITH FELSBURG HOLT & ULLEVIG INC**

This PROFESSIONAL SERVICES MASTER AGREEMENT FOR TRAFFIC ENGINEERING SERVICES, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 11<sup>th</sup> day of June, 2024, by and between THE TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado (the “Town”), and FELSBURG HOLT & ULLEVIG INC a Colorado Corporation (the “Consultant”). The Town and the Consultant are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS**

WHEREAS, the Town is a Home Rule Municipality, authorized to provide certain services within its corporate boundaries;

WHEREAS, from time to time, the Town has need of contracted professional engineering services, for purposes which may include without limitation, design, bidding and project review/management of discrete Town projects and review of development permit applications and plans; and

WHEREAS, the Consultant employs certified professional engineers and is in good standing with the Colorado Secretary of State (*see Exhibit C*); and

WHEREAS, the Town desires to engage the Consultant to render the services described in this Agreement, pursuant to Work Orders approved in writing by both parties and attached to this contract; and

WHEREAS, the Town is authorized to contract for the provision of such services pursuant to §§ 31-15-101, *et seq.*, C.R.S.;

WHEREAS, the Consultant has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**TERMS AND CONDITIONS**

1. **SCOPE OF SERVICES.** The Consultant shall provide engineering services as set forth in Work Orders approved by both parties in writing (“Work Orders”), and all of Consultant’s work under such Work Orders shall be collectively referred to as the “Services”. All Services shall be performed: (a) in a professional manner, to the satisfaction of the Town, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the Town; (b) within the time period and pursuant to the requirements of said Work Order and (c) using reasonable efforts to minimize any annoyance, interference or disruption to the residents, tenants, occupants and invitees within the Town. In the event of any conflict between

terms set forth in the body of this Agreement and terms set forth in a Work Order, the terms in the body of this Agreement shall govern. Consultant shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the Town in any manner whatsoever, except to the extent specifically provided in this Agreement (including Work Orders) or through other authorization expressly delegated to Consultant or authorized by the Town through the Town Council.

2. TERM/RENEWAL. This Agreement shall be effective as of the dated date hereof and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; (ii) one (1) year after execution of this Agreement. Notwithstanding the foregoing, unless terminated, or unless the Town determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for up to four (4) additional one-year terms commencing June 10 of the next succeeding year. Any payment obligations of the Town in years other than the year of signing are pursuant to budget and appropriation and the Town can cancel this contract without penalties in the event of non-appropriation.

3. WORK ORDERS. The Town and the Consultant may agree for the Consultant to provide specific work, subject to the mutual agreement of the Consultant and the Town pursuant to a written Work Order, in substantially the form attached hereto as **Exhibit A**, executed by an authorized representative of each Party. Work Orders shall be sequentially numbered and attached to this Agreement and automatically incorporated herein upon signature by both Parties. Each Work Order shall set forth the required date for completion or a schedule for various tasks, shall contain a not-to-exceed cost for the work, and shall state that the Town has appropriated funds sufficient to cover the additional compensable amount. The terms and conditions of this Agreement relating to Services shall apply to any work under Work Orders.

4. GENERAL PERFORMANCE STANDARDS

a. The Consultant represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Consultant's performance of the Services does not meet this standard, the Consultant shall, at the Town's request, re-perform the Services not meeting this standard without additional compensation.

b. The Consultant shall use reasonable commercial efforts to perform and complete the Services in a timely manner. If performance of the Services by the Consultant is delayed due to factors beyond the Consultant's reasonable control, or if conditions or the scope or type of services are expected to change, Consultant shall give prompt notice to the Town of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Consultant agrees that it has and will continue to comply with all Laws while providing Services under this Agreement. "Laws" means: (i) federal, state, county and local or municipal body or agency laws, statutes, ordinances and regulations; (ii) any licensing bonding, and permit requirements; (iii) any laws relating to storage, use or disposal of hazardous wastes, substances or materials; (iv) rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses; (v) regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970; (vi) Wage and Hour laws, Worker Compensation laws, and immigration laws.

e. The responsibilities and obligations of the Consultant under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, subconsultant or employee of the Town. Review, acceptance or approval by the Town of the Services performed or any documents prepared by the Consultant shall not relieve the Consultant of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be on a time and materials basis, based on the rate schedule set forth in **Exhibit A-1**, not to exceed the amount set forth in the Work Order for each project. The Consultant shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as expressly provided in a Work Order, unless said reimbursement or compensation is approved in writing by the Town in advance of incurring such expenses. Any direct reimbursable costs for materials and/or expenses will be reimbursable at the then current Consultant's accepted rate schedule, provided that the Consultant shall make a reasonable attempt to notify the Town of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Consultant shall provide the Town with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Consultant until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit A-2**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of this Agreement for Services performed in the prior month, and shall contain the following information:

i. An itemized statement of the Services performed, by Work Order and not to exceed the amount set forth in such Work Order.

ii. Any other reasonable information required by the Town to process payment of the invoice, including project and/or cost codes as provided in any applicable written Work Order.

7. TIME FOR PAYMENT. Payment for the Services shall be made by the Town within thirty (30) days of receipt of a timely, satisfactory and detailed invoice in the form required by Section 6, for that portion of the Services performed and not previously billed. In the event that the Town contests all or a portion of an invoice, the Town shall provide timely written notice of the dispute, pay the undisputed portion of the invoice, and hold the remainder of the amount due under the Invoice, pending dispute resolution.

Interest on late payments, if any, other than disputed amounts, shall be paid by the Town at the statutory rate. In the event a Town Council meeting is not scheduled in time to review payment of an invoice, the Town hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Town Council approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the Town's approved budget. Such payment shall require review and approval of each invoice by the Town Manager or applicable Department Head, as appropriate, subject to ratification at the next succeeding special or regular Town Council meeting.

8. INDEPENDENT CONTRACTOR. The Consultant is an independent contractor and nothing in this Agreement shall constitute or designate the Consultant or any of its employees or agents as employees or agents of the Town. The Consultant shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the Town, and shall be responsible for supervising its own employees or subcontractors. The Town is concerned only with the results to be obtained. The Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Consultant shall be responsible for its safety, and the safety of its employees, subcontractors, agents, and representatives. All personnel furnished by the Consultant will be deemed employees or sub-contractors of the Consultant and will not for any purpose be considered employees or agents of the Town, and the Consultant will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Consultant is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Consultant or some other entity other than the Town, and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

9. PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION: EMPLOYEE MEMBERSHIP. Consultant agrees that, concurrent with execution of this Agreement, Consultant will disclose to the Town the membership status of any of Consultant's employees that are members of the Colorado Public Employees' Retirement Association pursuant to §§ 24-51-301 *et*



*seq.*, C.R.S. Failure to meet this requirement shall be a material breach of this Agreement, and the Town's obligations to perform under this Agreement are specifically conditioned on Consultant's performance as required under this Section 10.

10. EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY. This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Consultant represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

11. CONSULTANT'S INSURANCE.

a. The Consultant shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the Town, its directors, officers, employees and agents is required for Commercial General Liability and Workers Compensation coverage. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the Town as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the Town may carry, and any insurance maintained by the Town shall be considered excess. The Town shall have the right to verify or confirm, at any time, all coverage, information or representations contained in this Agreement.

b. Prior to commencing any work under this Agreement, the Consultant shall provide the Town with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit B-1**. If the Consultant subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the Town and the Consultant; provided, however, that subcontractors of the Consultant shall not be required by the Town to provide coverage in excess of that which is required hereunder of the Consultant. If the coverage required expires during the term of this Agreement, the Consultant or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Consultant's failure to purchase the required insurance shall not serve to release it from any obligations contained in this Agreement; nor shall the purchase of the required insurance serve to limit the Consultant's liability under any provision in this Agreement. The Consultant shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. Any information deemed confidential by the Town and given to the Consultant by the Town, or developed by the Consultant as a result of the performance of a particular task, shall remain confidential. In addition, the Consultant shall hold in strict confidence, and shall not use in competition, any information which the Consultant becomes aware

of under or by virtue of this Agreement which the Town deems confidential, or which the Town has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the interests of the Town. Confidential information shall not include, however, any information which is: (i) generally known to the public at the time provided to the Consultant (ii) provided to the Consultant by a person or entity not bound by confidentiality to the Town; or (iii) independently developed by the Consultant without use of the Town's confidential information. During the performance of this Agreement, if the Consultant is notified that certain information is to be considered confidential, the Consultant agrees to enter into a confidentiality agreement in a form reasonably acceptable to the Town and the Consultant. The Consultant agrees that any of its employees, agents or subcontractors with access to any information designated thereunder as confidential information of the Town shall agree to be bound by the terms of such confidentiality agreement.

b. Personal Identifying Information. During the performance of this Agreement, the Town may disclosure Personal Identifying Information to the Consultant. "Personal Identifying Information" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in § 24-73-103(1)(a), C.R.S.; an employer, student, or military identification number; or a financial transaction device, as defined in § 18-5-701(3), C.R.S. In compliance with § 24-73-102, C.R.S., the Consultant agrees to implement and maintain reasonable security procedures and practices that are: (i) appropriate to the nature of the Personal Identifying Information disclosed to the Consultant; and (ii) reasonably designed to help protect the Personal Identifying Information from unauthorized access, use, modification, disclosure, or destruction.

c. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the Town, the Consultant agrees to notify the Town of any conflicts of interest known to the Consultant that impact the Consultant's provision of Services to the Town. Consultants providing any development review services to the Town while also working for a developer on development project(s) within the Timnath Growth Management Area (GMA) will be considered as a potential conflict of interest which must be disclosed to the Town. In such event, the Town may require the Consultant to cease providing any development review services for the Town until completion of the other development project(s).

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Consultant pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the Town under all circumstances, upon payment to the Consultant of the invoices representing the work by which such materials were produced. At the Town's request, the Consultant will provide the Town with all documents produced by or on behalf of the Consultant pursuant to this Agreement. The Consultant shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services for a period of two years after termination of this Agreement, shall make them available for the Town's use and shall provide such copies to the Town upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Consultant shall not have any right or interest in any Town assets, or any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in this Agreement assuming the Consultant has been paid for all services rendered. The Consultant, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the Town's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Consultant shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Consultant to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Consultant further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the Town. The Consultant will provide indemnification against all such liens or verified statements of claim filed with the Town for labor performed, materials supplied or used by the Consultant and/or any other person in connection with the Services undertaken by the Consultant, in accordance with Section 16, below.

15. INDEMNIFICATION.

Consultant shall indemnify and save and hold harmless the Town, its councilmembers, officers, agents, contractors, and employees from and against: (1) damages, including but not limited to, loss of use of property or injuries to or death of any person or persons (including but not limited to property and officers and employees of the Town) and (2) claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees costs), causes of action, or other legal, equitable or administrative proceedings, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers' compensation which is incurred by the Town but only to the extent caused by or arising out of the errors and omissions, willful misconduct, criminal, tortious or negligent actions or omissions of Consultant in connection with Consultant's operations or performance herewith or Consultant's use or occupancy of real or personal property hereunder, including such acts or omissions of employees, agents, subcontractors or representatives of Consultant; provided however, that Consultant need not indemnify the Town or its councilmembers, officers, agents and employees from damages proximately caused by the negligence of the Town's officers, agents and employees.

This indemnity coverage shall also cover the Town's defense costs in the event that the Town, in its sole discretion, elects to provide its own defense. The Town retains the right to disapprove counsel, if any, selected by the Consultant to fulfill the foregoing defense indemnity obligation. In the event the Consultant fails to assume the defense of any claims under this Section 16 within fifteen days after notice from the Town of the existence of such claim, the Town may assume the defense of the Claim with counsel of its own selection, and the Consultant will pay all reasonable expenses of such counsel.

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of Consultant under the terms of this indemnification obligation. Consultant shall obtain, at its own expense, any additional insurance that Consultant deems necessary for the Town's

protection in the performance of this Agreement. This indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Consultant shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the Town. Any attempted assignment of this Agreement in whole or in part with respect to which the Town has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUBCONTRACTORS. Consultant shall not subcontract any Services without prior written approval by the Town. Consultant is solely and fully responsible to the Town for the performance of all Services in accordance with the terms set forth in this Agreement, whether performed by the Consultant or a subcontractor engaged by the Consultant, and neither the Town's approval of any subcontractor, suppliers, or materialman, nor the failure of performance thereof by such persons or entities, will relieve, release, or affect in any manner the Consultant's duties, liabilities, or obligations under this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the Town.

18. TERMINATION. This Agreement may be terminated for cause or convenience by the Town by giving the Consultant thirty (30) days' prior written notice. Each Party may terminate this Agreement for cause at any time upon such thirty (30) day written notice to the other Party, setting forth the cause for termination, and the notified Party's failure to cure the default within the cure period after notice of default set forth in Section 19. If this Agreement is terminated, the Consultant shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. In the event of termination of this Agreement, the Consultant shall cooperate with the Town to ensure a timely and efficient transition of all work and work product to the Town or its designees. All time, fees and costs associated with such transition shall not be billed by the Consultant to the Town, unless the Town terminates the Agreement for convenience.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have ten days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such ten-day period and the defaulting party gives written notice to the non-defaulting party within such ten-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the ten-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement with thirty days advance notice and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice required under this Agreement must be in writing, and may be given by hand-delivery, sent via nationally recognized overnight carrier service, or sent by

certified mail, return receipt requested. The notice will be deemed to have been given upon receipt, in the case of hand-delivery or certified mail, or one business day after being deposited with a nationally recognized overnight air courier service. Any Party may update its address by giving written notice to the other Party as provided in this Section 20. Such notices or communications will be given to the parties at their addresses set forth below:

- To the Town:           Town of Timnath  
                              Attn: Public Works Director  
                              4750 Signal Tree Drive  
                              Timnath, CO 80547  
                              970-224-3211 (phone)  
                              970-224-3217 (fax)
  
- With copy to:         Timnath Town Attorney  
                              Attn: Carolyn Steffl  
                              4750 Signal Tree Drive  
                              Timnath, Colorado 80547  
                              (970) 224-3211 (phone)  
                              (970) 224-3217 (fax)
  
- Consultant:           Felsburg Holt & Ullevig Inc  
                              Attn: Rachel Ackermann  
                              6400 S Fiddlers Green Circle, Suite 1500  
                              Greenwood Village, CO 80111  
                              (303) 721-1440 (phone)  
                              (303) 721-0832 (fax)

21. AUDITS. The Town shall have the right to audit, with reasonable notice, any of the Consultant's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records), and the Consultant agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two years after termination of the Agreement and to make the same available to the Town at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Consultant and the Town.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in this Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW.

a. Venue. Venue for all actions arising from this Agreement shall be in the District Court in and for the County where the project will be constructed or in Larimer County. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the Town's request, the Consultant shall carry on its duties and obligations under this Agreement during any legal proceedings and the Town shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

b. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles.

c. Litigation. At the Town's request, the Consultant will consent to being joined in litigation between the Town and third parties related to the Work or this Agreement, but such consent shall not be construed as an admission of fault or liability. The Consultant shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the Town to furnish timely information or to approve or disapprove of Consultant's Services in a timely manner.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. Pursuant to § 24-91-103.6(2), C.R.S., the Parties hereby agree that the amount of money appropriated by the Town for the Services is equal to the compensation amount set forth in any Work Orders attached at the time of execution of this Agreement. This Agreement shall not be modified to require the Consultant to perform additional compensable work unless the Town has made lawful appropriations to cover the costs of the additional work. The Town does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the Town pursuant to this Agreement requiring budgeting and appropriation of funds in future years are subject to annual budgeting and appropriations.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Town, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available to the Town pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS AND PRIORITY. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement. In the event of a conflict between the terms of the body of this Agreement and the Exhibits attached to this

Agreement, the terms of the body of this Agreement shall control. Any waiver of liability or warranty or requirement for payment of attorneys' fees by the Town contained in any Exhibit shall not be binding against the Town.

30. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the intention being that such portions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202 *et seq.*, C.R.S.

33. TAX EXEMPT STATUS. The Town is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the Town is exempt shall not be included in any invoices submitted to the Town. The Town shall, upon request, furnish Consultant with a copy of its certificate of tax exemption. Consultant and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase materials tax free. The Consultant and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

34. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

TOWN:

TOWN OF TIMNATH, a home rule municipal corporation and political subdivision of the State of Colorado

DocuSigned by:  
*Aaron Adams*  
A7C88DD0439C4A8...  
\_\_\_\_\_  
Aaron Adams, Town Manager

ATTEST:

DocuSigned by:  
*Milissa Peters Garcia*  
07A6AF3B02174D7...  
\_\_\_\_\_  
Milissa Peters-Garcia, CMC Town Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*Carolyn Steffl*  
F44B3903ECCD849F...  
\_\_\_\_\_  
Carolyn R. Steffl, Town Attorney

***Town's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Felsburg Holt & Ullevig Inc, dated June 11, 2024***



FELSBURG HOLT & ULLEVIG INC:  
a Colorado Corporation

DocuSigned by:  
  
49BE8CB0418C4EE...

Printed Name: Jenny Young

Title: Principal

***Consultant's Signature Page to Professional Services Master Agreement for Traffic Engineering with the Town of Timnath and Felsburg Holt & Ullevig Inc, dated June 11, 2024***

**EXHIBIT A**  
**FORM OF WORK ORDER**

**EXHIBIT A  
WORK ORDER NUMBER \_\_\_\_\_**

PURSUANT TO PROFESSIONAL SERVICES MASTER AGREEMENT FOR  
\_\_\_\_\_ ENGINEERING BETWEEN  
THE TOWN OF TIMNATH  
AND  
**PROFESSIONAL'S NAME**

**MASTER AGREEMENT NAME:** \_\_\_\_\_

**MASTER AGREEMENT EFFECTIVE DATE:** \_\_\_\_\_

**PROJECT TITLE:** \_\_\_\_\_

**WORK ORDER COMMENCEMENT DATE:** \_\_\_\_\_

**WORK ORDER COMPLETION DATE:** \_\_\_\_\_

**NOT-TO-EXCEED FEE FOR THIS WORK ORDER:** (time and reimbursable direct costs):

\_\_\_\_\_

**PROJECT DESCRIPTION/SCOPE OF SERVICES:** \_\_\_\_\_

CONSULTANT agrees to perform the services identified above and on the attached forms in accordance with the terms and conditions contained herein and in the Professional Services Master Agreement for \_\_\_\_\_ Engineering (the "Master Agreement") between the parties. In the event of a conflict between or ambiguity in the terms of the Master Agreement and this Work Order (including the attached forms) the Master Agreement shall control.

The attached forms consisting of ( ) page(s) are hereby accepted and incorporated herein, by this reference, and Notice to Proceed is hereby given after all parties have signed this document.

The Town affirms that it has appropriated sufficient funds to cover the additional work set forth in this Work Order, up to the not to exceed amount set forth above, in addition to any work under Master Agreement or prior Work Orders thereto; and that such funds shall be available prior to performance of the additional work.

CONSULTANT: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

TOWN: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

ATTEST: \_\_\_\_\_ Date: \_\_\_\_\_  
Name, Title

**EXHIBIT A-1**  
CONSULTANT'S COMPLETED W-9

Form **W-9**  
(Rev. October 2018)  
Department of the Treasury  
Internal Revenue Service

# Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**Felsburg Holt & Ullevig Inc**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

- Individual/sole proprietor or single-member LLC
- C Corporation
- S Corporation
- Partnership
- Trust/estate
- Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ \_\_\_\_\_
- Other (see instructions) ▶ \_\_\_\_\_

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) 5

Exemption from FATCA reporting code (if any) \_\_\_\_\_

*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.) See instructions.

**6400 S Fiddlers Green Circle, Suite 1500**

6 City, state, and ZIP code

**Greenwood Village, CO 80111 (Remit: Dept 1539, PO Box 30106, Salt Lake City, UT 84130-0106)**

7 List account number(s) here (optional)

Requester's name and address (optional)

Print or type. See Specific Instructions on page 3.

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-			-		

or

Employer identification number									
8	4	-	0	9	6	5	9	7	7

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person ▶

Date ▶ 01/16/2024

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

**EXHIBIT A-2**  
**Consultant's Rate Schedule**



## 2024 Rate Sheet

The following hourly billing rates apply to all “Time and Materials” contracts.

### Staff Rates

Principal III.....	\$340
Principal II.....	\$310
Principal I.....	\$295
Associate II.....	\$315
Associate I.....	\$290
Advanced Mobility Director.....	\$315
Sr Adv. Mobility Engineer/Strategist.....	\$250
Adv. Mobility Lead Engineer/Strategist V.....	\$210
Adv. Mobility Engineer/Strategist IV.....	\$185
Adv. Mobility Engineer III.....	\$165
Adv. Mobility Analyst III.....	\$150
Adv. Mobility Engineer II.....	\$135
Adv. Mobility Analyst II.....	\$135
Adv. Mobility Engineer I.....	\$120
Adv. Mobility Analyst I.....	\$120
Transit and Operations Director.....	\$290
Sr. Engineer/ Env. Scientist/Trans. Planner ..	\$235
Engineer/Env. Scientist/Trans. Planner V.....	\$205
Engineer IV/ Env. Scientist/Trans. Planner ...	\$180
Engineer III/ Env. Scientist/Trans. Planner....	\$155
Engineer II/ Env. Scientist/Trans. Planner.....	\$135
Engineer I/ Env. Scientist/Trans. Planner.....	\$120
GIS Manager.....	\$185
GIS Specialist IV.....	\$170
GIS Specialist III.....	\$145
GIS Specialist II.....	\$130
GIS Specialist I.....	\$120
Lead ITS Specialist.....	\$210
CADD Manager/Lead Designer.....	\$225
Sr. Designer/Project Technician.....	\$200
Designer V/Project Technician V.....	\$185
Designer IV/Project Technician IV.....	\$170
Designer III/Project Technician III.....	\$135
Designer II/Project Technician II.....	\$115
Designer I/Project Technician I.....	\$105
Sr. Construction Technician.....	\$210
Construction Technician V.....	\$180
Construction Technician IV.....	\$150
Construction Technician III.....	\$130
Construction Technician II.....	\$120
Construction Technician I.....	\$100
Community Engagement Manager.....	\$160
Community Engagement Specialist.....	\$110

Graphic Design Manager.....	\$175
Graphic Design Specialist V.....	\$170
Graphic Design Specialist IV.....	\$160
Graphic Design Specialist III.....	\$140
Graphic Design Specialist II.....	\$125
Graphic Design Specialist I.....	\$105
Intern II.....	\$90
Intern I.....	\$75
Marketing Manager.....	\$175
Marketing Specialist.....	\$130
Sr. Administrative Assistant.....	\$160
Administrative/Accountant.....	\$105

### Other Direct Costs

#### Plots

Bond.....	\$0.31/sq ft
-----------	--------------

#### Prints

Black and White.....	\$0.12/print
Color.....	\$0.19/print

#### Presentation Boards

Bond Foam Core Mounted.....	\$1.51/sq ft
-----------------------------	--------------

#### Travel

Mileage.....	\$0.655/Mile (or current allowable Federal rate)
Truck (Construction).....	\$50.00/day
Parking.....	Actual Costs
Lodging/Airfare.....	Actual Costs

#### Other Miscellaneous Costs

Courier/Postage.....	Actual Costs
Per Diem.....	Actual Costs
Subconsultants/Vendors.....	Actual Costs

Other direct costs are reimbursed at a rate of 1.1 times the rates above and/or actual costs.



TMCS (AM-PM 2 HRS EACH) \$500

ADTS (24HRS) \$300

Project Manager \$105 per hr

Data Manager \$90 per hr

Technician \$85 per hr



## EXHIBIT B

### INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 12 of this Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Consultant involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate, and \$1,000,000 umbrella. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to, to the extent applicable:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. limited contractual;\*
  - d. broad form property damages; and
  - e. medical payments.

**\*This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement.**
3. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of operation or use of an automobile.**
4. If applicable: Consultant shall secure and maintain a third party fidelity bond in favor of the Town covering the Consultant and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the Town. Such bond shall protect the Town against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the Town. Said bond shall be in an amount as determined by the Town, from a surety acceptable to the Town.
5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.

6. Professional liability insurance in the minimum amount of \$1,000,000.00 each occurrence; \$2,000,000.00 aggregate.

**EXHIBIT B-1**  
**CERTIFICATE(S) OF INSURANCE**

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/24/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

Table with 2 main sections: PRODUCER (USI Insurance Services, LLC) and INSURED (Felsburg Holt & Ullevig, Inc.). Includes contact info and a table of INSURER(S) AFFORDING COVERAGE with NAIC #.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

Main table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation, and Professional Liab.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability; Designated Insured under Automobile Liability; and Additional Insureds under Umbrella / Excess Liability but only with respect to liability arising out of the Named Insured work performed on behalf of the certificate holder and owner. (See Attached Descriptions)

Table with 2 columns: CERTIFICATE HOLDER (The Town of Timnath) and CANCELLATION (SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.). Includes a signature line for AUTHORIZED REPRESENTATIVE.

## DESCRIPTIONS (Continued from Page 1)

The General Liability, Automobile Liability, Umbrella/Excess insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella / Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability.

Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.

The policies include a blanket endorsement providing that 30 days notice of cancellation will be given to the Certificate Holder by the Insurance Carrier.

**RE: On-Call Traffic Engineering Services**

**Additional Insured and Waiver of Subrogation: The Town of Timnath, its directors, officers, employees and agents**

GENERAL PURPOSE ENDORSEMENT

POLICY NUMBER: 6802J252902

OFFICE PAC

ISSUE DATE:

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CGD361 (03-05) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION**

**THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING: COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

**NAMES OF ADDITIONAL INSURED PERSON(S) Or ORGANIZATION(S): Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part, provided that such written contract was signed and executed by you before, and is in effect when, the bodily injury or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.**

**LOCATION OF COVERED OPERATIONS:**

**Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies**

**(INFORMATION REQUIRED TO COMPLETE THIS SCHEDULE, IF NOT SHOWN ABOVE, WILL BE SHOWN IN THE DECLARATIONS.)**

**A. SECTION II - WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED THE PERSON(S) OR ORGANIZATION(S) SHOWN IN THE SCHEDULE, BUT ONLY WITH RESPECT TO LIABILITY FOR "BODILY INJURY", "PROPERTY DAMAGE", "PERSONAL INJURY" OR "ADVERTISING INJURY" CAUSED, IN WHOLE OR IN PART, BY:**

- 1. YOUR ACTS OR OMISSIONS; OR**
- 2. THE ACTS OR OMISSIONS OF THOSE ACTING ON YOUR BEHALF; IN THE PERFORMANCE OF YOUR ONGOING OPERATIONS FOR THE ADDITIONAL INSURED(S) AT THE LOCATION(S) DESIGNATED ABOVE.**

**B. WITH RESPECT TO THE INSURANCE AFFORDED TO THESE ADDITIONAL INSURED, THE FOLLOWING ADDITIONAL EXCLUSIONS APPLY;**

**This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an**

GENERAL PURPOSE ENDORSEMENT

POLICY NUMBER:

OFFICE PAC

ISSUE DATE:

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CGD361 (03-05) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -  
SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

offense committed, after:

1. ALL WORK, INCLUDING MATERIALS, PARTS OR EQUIPMENT FURNISHED IN CONNECTION WITH SUCH WORK, ON THE PROJECT (OTHER THAN SERVICE, MAINTENANCE OR REPAIRS) TO BE PERFORMED BY OR ON BEHALF OF THE ADDITIONAL INSURED(S) AT THE LOCATION OF THE COVERED OPERATIONS HAS BEEN COMPLETED;

OR

2. THAT PORTION OF "YOUR WORK" OUT OF WHICH THE INJURY OR DAMAGE ARISES HAS BEEN PUT TO ITS INTENDED USE BY ANY PERSON OR ORGANIZATION OTHER THAN ANOTHER CONTRACTOR OR SUBCONTRACTOR ENGAGED IN PERFORMING OPERATIONS FOR A PRINCIPAL AS A PART OF THE SAME PROJECT.

CGD361 0305

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GENERAL PURPOSE ENDORSEMENT

POLICY NUMBER: 6802J252902

OFFICE PAC

ISSUE DATE:

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CG2037 (07-04) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

**NAMES OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATION(S):**

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the products-completed operations hazard, provided that such contract was signed and executed by you before, and is in effect when, the "bodily injury or "property damage" occurs.

**LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:**

Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

(INFORMATION REQUIRED TO COMPLETE THIS SCHEDULE, IF NOT SHOWN ABOVE, WILL BE SHOWN IN THE DECLARATIONS.)

A. SECTION II - WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED THE PERSON(S) OR ORGANIZATION(S) SHOWN IN THE SCHEDULE, BUT ONLY WITH RESPECT TO LIABILITY FOR "BODILY INJURY", "PROPERTY DAMAGE" CAUSED, IN WHOLE OR IN PART, BY "YOUR WORK" AT THE LOCATION DESIGNATED AND DESCRIBED IN THE SCHEDULE OF THIS ENDORSEMENT PERFORMED FOR THAT ADDITIONAL INSURED AND INCLUDED IN THE "PRODUCTS-COMPLETED OPERATIONS HAZARD".

CG 20 37 07 04

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>A. Non-Owned Watercraft – 75 Feet Long Or Less</li> <li>B. Who Is An Insured – Unnamed Subsidiaries</li> <li>C. Who Is An Insured – Retired Partners, Members, Directors And Employees</li> <li>D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees</li> <li>E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies</li> <li>F. Blanket Additional Insured – Controlling Interest</li> <li>G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers</li> </ul> | <ul style="list-style-type: none"> <li>H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises</li> <li>I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</li> <li>J. Incidental Medical Malpractice</li> <li>K. Medical Payments – Increased Limit</li> <li>L. Amendment Of Excess Insurance Condition – Professional Liability</li> <li>M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement</li> <li>N. Contractual Liability – Railroads</li> </ul> |
|--|--|

### **PROVISIONS**

#### **A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS**

1. The following replaces Paragraph (2) of Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:
  - (2) A watercraft you do not own that is:
    - (a) 75 feet long or less; and
    - (b) Not being used to carry any person or property for a charge;
2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:
  - e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

#### **B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

## COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;
- as indicated in its name or the documents that govern its structure.

**C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

The following is added to Paragraph 2. of **SECTION II – WHO IS AN INSURED:**

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

- (1) "Bodily injury":
- (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
- (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- (2) "Personal injury":
- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.
- (3) "Property damage" to property:
- (a) Owned, occupied or used by; or
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
- you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

## COMMERCIAL GENERAL LIABILITY

**D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

The following is added to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED**:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

**E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES**

The following replaces Paragraph 3. of **SECTION II – WHO IS AN INSURED**:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only:
    - (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or
    - (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;
  - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

**F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST**

1. The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of **SECTION II – WHO IS AN INSURED**:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

**G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS**

- The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

## COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
  - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

### H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

### I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

### J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a)** "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

## COMMERCIAL GENERAL LIABILITY

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.
3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE**:  
For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".
4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:  
**Sale Of Pharmaceuticals**  
"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.
5. The following is added to the **DEFINITIONS** Section:  
"Incidental medical services" means:  
a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or  
b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.
6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:  
This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

**K. MEDICAL PAYMENTS – INCREASED LIMIT**

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or  
b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

**L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY**

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

**M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or  
b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.

COMMERCIAL GENERAL LIABILITY

**N. CONTRACTUAL LIABILITY – RAILROADS**

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c.** Any easement or license agreement;
2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **AUTO COVERAGE PLUS ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><b>A. BLANKET ADDITIONAL INSURED</b></li> <li><b>B. EMPLOYEE HIRED AUTO</b></li> <li><b>C. EMPLOYEES AS INSURED</b></li> <li><b>D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b></li> <li><b>E. TRAILERS – INCREASED LOAD CAPACITY</b></li> <li><b>F. HIRED AUTO PHYSICAL DAMAGE</b></li> <li><b>G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b></li> </ul> | <ul style="list-style-type: none"> <li><b>H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT</b></li> <li><b>I. WAIVER OF DEDUCTIBLE – GLASS</b></li> <li><b>J. PERSONAL PROPERTY</b></li> <li><b>K. AIRBAGS</b></li> <li><b>L. AUTO LOAN LEASE GAP</b></li> <li><b>M. BLANKET WAIVER OF SUBROGATION</b></li> </ul> |
|---|---|

#### **A. BLANKET ADDITIONAL INSURED**

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### **B. EMPLOYEE HIRED AUTO**

1. The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in B.5., **Other Insurance**, of SECTION IV – BUSINESS AUTO CONDITIONS:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

#### **C. EMPLOYEES AS INSURED**

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:



## COMMERCIAL AUTO

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2) of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4) of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph C.1. of SECTION I – COVERED AUTOS:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

### F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

#### Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

### G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., Transportation Expenses, of SECTION III – PHYSICAL DAMAGE COVERAGE:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

### H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph C.1.b. of SECTION III – PHYSICAL DAMAGE COVERAGE is deleted.

### I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., Deductible, of SECTION III – PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

### J. PERSONAL PROPERTY

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

#### Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

**K. AIRBAGS**

The following is added to Paragraph B.3., Exclusions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

**L. AUTO LOAN LEASE GAP**

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

**Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles**

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

**(2) Any:**

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph A.5., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV – BUSINESS AUTO CONDITIONS:

**5. Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM**

### **PROVISIONS**

- 1. The following is added to Paragraph A.1.c., Who Is An Insured, of SECTION II – LIABILITY COVERAGE:**

This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

- 2. The following is added to Paragraph B.5., Other Insurance of SECTION IV – BUSINESS AUTO CONDITIONS:**

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

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**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 00 03 13 (00) - 01**

POLICY NUMBER:

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

**SCHEDULE**

**DESIGNATED PERSON:**

**DESIGNATED ORGANIZATION:**

**ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS  
COMPLETED A WRITTEN AGREEMENT TO PROVIDE THIS WAIVER.**

DATE OF ISSUE:

ST ASSIGN:

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COMMERCIAL GENERAL LIABILITY

## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

### SECTION I – COVERAGES

#### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.



## COMMERCIAL GENERAL LIABILITY

### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

(1) The "bodily injury" or "property damage" for which coverage is sought occurs; and

(2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

### 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

### 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

### 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

**EXHIBIT C**

**CERTIFICATE OF GOOD STANDING WITH COLORADO SECRETARY OF STATE**

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

FELSBURG HOLT & ULLEVIG, INC.

is a

Corporation

formed or registered on 10/19/1984 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871591599 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 04/24/2024 that have been posted, and by documents delivered to this office electronically through 04/25/2024 @ 10:20:28 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 04/25/2024 @ 10:20:28 in accordance with applicable law. This certificate is assigned Confirmation Number 15978568 .



*Jena Griswold*

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*