

ASSIGNMENT AND FUNDING AGREEMENT

THIS ASSIGNMENT AND FUNDING AGREEMENT (the “**Agreement**”) made and entered into, effective as of the date set forth on the City’s signature page (“**Effective Date**”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”) and **ENVIRONMENTAL LEARNING FOR KIDS**, a Colorado nonprofit corporation, whose address is P.O. Box 21679, Denver, Colorado 80221 (the “**ELK**”).

RECITALS

WHEREAS, the City, through its Department of Parks and Recreation, and the ELK desire to participate in a certain Great Outdoors Colorado (“**GOCO**”) grant program for the benefit of the GoWild Northeast Metro Coalition, which awards grant funds to eligible entities to complete certain projects;

WHEREAS, the City submitted an application for an award of funds to GOCO, which GOCO approved, and ELK has been selected as a Third Party Beneficiary to the grant fund;

WHEREAS, ELK proposes to complete certain improvements at the ELK facility, hereinafter referred to as the “**Project**” as is described in the attached **Exhibit A** to this Agreement;

WHEREAS, the Project involves the type of work and improvements contemplated as a part of GOCO’s grant program described in the Grant Agreement between the City and GOCO and attached as **Exhibit B** to this Agreement;

WHEREAS, the City and ELK have consented to distribution of funds from the City to ELK as permitted in the Grant Agreement, **Exhibit B**, and subject to the requirements of Section 3 of the Grant Agreement;

WHEREAS, ELK is willing and has the present capacity to satisfactorily arrange for its contractors to complete the Project for the use and benefit of the public, as specified in this Assignment Agreement;

WHEREAS, the City in accordance with Part 4, §2.4.4(F) of the City Charter may enter into cooperative agreements and assign certain functions to private agencies;

WHEREAS, by means of this Agreement, the City and ELK desire to specify the terms and conditions upon which the Project will be undertaken and completed by ELK;

NOW, THEREFORE, in consideration of the above premises which are incorporated in

this Agreement, and the mutual promises and covenants contained herein, the City and ELK agree as follows:

1. **The Project:** The “**Project,**” as used herein, refers to the improvements to be designed, constructed, and/or installed by ELK at its facility in accordance with a project, construction and/or design plan to be submitted by ELK to the City for approval. The location of the work to be performed by ELK under the plans is generally described in the attached **Exhibit A** which is incorporated herein by reference. The work to be performed and the cost breakout for the Project are also delineated in **Exhibit A**. All plans and specifications are to be reviewed and approved by the appropriate City agencies and are to be made timely available to the Department of Parks and Recreation for review and approval. Beyond the funding to be provided by the City under Section 6 of this Agreement, ELK will perform or cause to be performed all work items, and if the funds provided by City are insufficient, then ELK shall also provide all remaining funds necessary to satisfactorily complete the Project in accordance with the terms and conditions of this Agreement and the Grant Agreement.

2. **Coordination and Liaison:**

A. **Director’s Representative.** The City’s Director of Parks and Recreation (the “**Director**”) is vested with the authority to act on behalf of the City in performing the City’s obligations under this Agreement. The Director has designated a Planning, Design, and Construction Senior City Planner with the Department of Parks and Recreation, to act on the Director’s behalf as the authorized representative (“**Director’s Representative**”). The City may change its authorized representative at any time by providing written notice to ELK of such change.

B. **ELK’s Representative.** ELK’s authorized representative under this Agreement is Loretta Pineda, Executive Director of Environmental Learning for Kids (“**ELK’s Representative**”), and, as such, is responsible for overseeing the satisfactory completion of the Project, in accordance with the terms and conditions of this Agreement. ELK may change its authorized representative at any time by providing written notice to the City of such change.

3. **Assignment:** Pursuant to the authority granted in Section 2.4.4(F) of the City Charter, the Department of Parks and Recreation hereby assigns to ELK all matters relating to the design, planning, and construction of the Project, including any demolition, and the

qualification, selection and retention of all consultants, architects, and contractors engaged in connection therewith.

4. **ELK Responsibilities:** Except as expressly provided in this Agreement, ELK shall have the responsibility with respect to undertaking and completing the Project in accordance with this Agreement and the Grant Agreement.

A. **Bid Process; Plan Approvals.** ELK shall be responsible for seeking qualifications, competitively selecting, and retaining qualified and licensed design professionals, construction professionals, surveyors, or other consultants who will prepare the design and construction documents for the Project and for bidding and letting out the work to qualified, licensed and experienced contractors. Before the Project commences, ELK shall submit the plans and specifications, including any subsequent modifications, to the Director's Representative for the written approval of said documents. The plans and specifications will be approved or disapproved, in writing, with the reasons for any disapproval being stated, within thirty (30) calendar days of receipt by the Director's Representative of complete sets of the plans and specifications. Any deficiencies in said plans and specifications shall be remedied by ELK, to the reasonable satisfaction of the Director's Representative, prior to the commencement of Project work.

B. **Inspection; Testing.** ELK shall at all reasonable hours ensure right of entry to any City inspector or other authorized agent of the City to inspect the work site and progress of the Project and to conduct tests and evaluations to determine that the work performed and materials used are of good quality and in conformance with the approved plans and specifications. If it is determined that the work is not being so performed, the Director's Representative may order that the cessation of the work until there is satisfactory evidence that the Project work conforms to the approved plans and specifications. If the Director's Representative determines that the work is not otherwise being performed in accordance with this Agreement, the Director's Representative may order that ELK cease to conduct the work until there is satisfactory evidence that the work will be performed in accordance with this Agreement.

C. **Fees.** The City shall not charge ELK for the City's activities under this Section 4, including plan and specifications review, inspections, materials testing, and

construction monitoring. Standard building permit fees and other fees mandated by the City and County of Denver or the State shall be paid by ELK.

D. General Compliance with Laws. ELK shall be solely responsible for assuring that the Project is properly contracted and performed and that the work done and the materials used are in conformance with all applicable laws (local, state, and federal) that govern the performance of the work, including (to the extent applicable) the requirements of the federal Americans with Disabilities Act and any other federal or state laws requiring access for the disabled to public accommodations.

E. Compliance with City Charter and Ordinances. In addition to compliance with the above-mentioned laws, ELK shall be governed and controlled by all limitations and provisions that are imposed on the City's Department of Parks and Recreation and the Department of Public Works by the Charter or ordinances of the City. Specifically, such work shall be performed in compliance with the provisions for payment of prevailing wages set forth in Sections 20-76 through 20-79 of the Denver Revised Municipal Code ("**D.R.M.C.**"); for public art in Sections 20-85 through 28-90, D.R.M.C.; and for small business enterprise, equal employment opportunity, and minority and women business enterprise participation that are contained, respectively, in Sections 28-31 through 28-91, D.R.M.C.; as any or all of the above may be amended or recodified from time to time. No Project work shall commence until ELK has established to the City's reasonable satisfaction that these Charter and ordinance requirements have been fully and appropriately satisfied. ELK shall fully cooperate with City officials, including the City Auditor, in assuring compliance with these requirements. Failure to comply with the requirements of this paragraph E. shall be legal grounds under this Agreement for construction work to be ordered to cease or to be restricted, as deemed appropriate by the Director's Representative and/or the City Auditor, until compliance is achieved and any unpaid claims or other remedial measures are resolved to the reasonable satisfaction of the City.

F. Insurance Requirements. ELK shall require the design and construction professionals, contractors and sub-contractors (collectively as used in this paragraph F and Exhibit C, the "**Contractor**") to obtain and maintain insurance in the amounts and types of coverages appropriate for the Project work. The insurance requirements of shall be those specified in **Exhibit C** attached to and incorporated by reference into this Agreement and specified in any design or construction contract entered by ELK with a Contractor (collectively

as used in this paragraph F and Exhibit C, “**Construction Agreement**”). Failure to comply with the requirements of this paragraph F shall be legal grounds under this Agreement for work to be ordered to cease or to be restricted, as deemed appropriate by the Director’s Representative or the City’s Risk Management Office, until compliance is achieved and any unpaid claims are resolved to the reasonable satisfaction of the Director’s Representative and the City’s Risk Management Office. The obligations set out in this paragraph F shall survive the expiration or termination of this Agreement.

G. Performance and Payment Bond. ELK shall obtain and maintain, or require its construction contractor(s) and sub-contractor(s) to obtain and maintain, in advance and subject to approval by the Denver City Attorney’s Office, one hundred percent (100%) payment and performance bond(s) from an acceptable surety. The City and ELK shall be named as obligees on all bonds. Bonds provided by ELK or the construction contractor(s) and sub-contractor(s) must be conditioned (1) that prompt payment shall be made for all amounts lawfully due to all contractors, subcontractors, and persons or entities furnishing labor or materials used in the prosecution of the work on any phase of the Project; and (2) as guarantee of the obligation to complete the Project as provided in this Agreement. In addition, all design professionals, contractors and sub-contractors shall be required to include an indemnification and “hold harmless” clause, approved by and for the benefit of the City and ELK, to protect both parties against claims, actions, and demands arising from or related to the work performed by the design professionals, contractors and sub-contractors. The dollar amount of such bonds shall be modified, as needed, to reflect any change orders that modify the total value of the Project or part of the Project. In addition, ELK shall provide satisfactory evidence that all architects, engineers, designers, and other enrolled professionals have been fully paid. Failure to comply with the requirements of this paragraph G shall be legal grounds under this Agreement for work to be ordered to cease or to be restricted, as deemed appropriate by the Director’s Representative or the City Attorney’s Office, until compliance is achieved and any unpaid claims are resolved to the reasonable satisfaction of the Director’s Representative and the City Attorney’s Office. The obligations set out in this paragraph G shall survive the expiration or termination of this Agreement.

H. Warranties. ELK shall obtain, exercise and enforce warranties and guarantees for all work it contracts and shall designate the City as an additional express

beneficiary for enforcing all warranties and guarantees. ELK's obligations set out in this paragraph H shall survive the expiration or termination of this Assignment Agreement.

I. Compliance Affirmation. Prior to authorizing the commencement of the Project under the construction contract(s) with the construction contractor(s) and subcontractor(s), ELK shall submit to the Director's Representative a letter affirming that the construction contract(s) in connection with the construction of the Project are or will be in full compliance with Section 4 of the Agreement.

J. Taxes. ELK and its contractor(s) and subcontractor(s) shall pay all applicable taxes, including sales and use taxes and occupational privilege taxes, levied by the State and the City on any tangible property built into or incorporated into the Project work. Upon request by the City, an itemized and certified statement, including the names and addresses of the suppliers, the amount of such taxes owed or paid, and the dates of payment, shall be furnished to the City. ELK's obligations set out in this paragraph J shall survive the expiration or termination of this Agreement.

K. Liens and Debts. ELK shall not permit any mechanic's or materialman's liens or any other liens to be imposed and remain for more than ninety (90) days upon any City-owned property, or any part thereof, by reason of any Project work or labor performed or materials or equipment furnished by any person or legal entity to or on behalf of ELK, either pursuant to C.R.S. § 38-26-107 or by any other authority. ELK shall promptly pay when due all bills, debts and obligations incurred in connection with this Agreement and shall not permit the same to become delinquent. ELK shall not permit any lien, mortgage, judgment, execution or adjudication of bankruptcy which will in any way impair the rights of the City under this Agreement. The ELK's obligations set out in this paragraph K shall survive the expiration or termination of this Agreement.

L. Environmental Requirements. ELK and its construction contractor(s) and subcontractor(s) shall obtain all federal, state, and local environmental permits necessary for the work to be performed and shall comply with all applicable federal, state, and local environmental permit requirements applicable to the work. ELK and its construction contractor(s) and subcontractor(s) shall comply with all applicable local, state, and federal environmental guidelines, rules, regulations, statutes, laws, and orders applicable to the work (collectively, "**Environmental Requirements**"), including but not limited to Environmental Requirements

regarding the storage, use, transportation, and disposal of Hazardous Materials and regarding releases or threatened releases of Hazardous Materials to the environment. The term “**Hazardous Materials**” shall mean asbestos, asbestos contaminated soils, and asbestos-containing materials, special wastes, polychlorinated biphenyls (PCBs), any petroleum products, natural gas, radioactive source material, pesticides, any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, and chemical substance as defined at 15 U.S.C. § 2602(2) of the Toxic Substances Control Act, and any guidelines issued and rules or regulations promulgated pursuant to such statutes, or any other applicable federal or state statute. ELK’s obligations set out above in this paragraph L shall survive the expiration or termination of this Agreement. If asbestos containing material is discovered within the Project site, the cost of remediation shall be equally shared by ELK and the City. ELK’s contractor shall have a materials handling protocol pre-approved by the Denver Department of Environmental Health in place during the Project work.

M. Impact Reduction. ELK shall take all reasonable measures to minimize and control noise, water and air pollution, water discharges, and soil erosion resulting from work and activities associated with the Project and to avoid adverse impacts to City-owned property and surrounding property, wherever possible, as a result of noise, water and air pollution, water discharges, and soil erosion resulting from the Project work and activities.

N. No Employment of Illegal Aliens.

(1) The Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

(2) ELK agrees and represents that:

(a) It shall not enter into a contract with a consultant, contractor or sub-contractor that fails to certify to ELK that it shall not knowingly employ or contract with an illegal alien to perform work for the Project.

(b) If it obtains actual knowledge that a consultant, contractor or sub-contractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such consultant, contractor or sub-contractor and the City within three (3) days. ELK will also then terminate such consultant, contractor or subcontractor if within

three (3) days after such notice the consultant, contractor or sub-contractor does not stop employing or contracting with the illegal alien, unless during such three-day period the consultant, contractor or sub-contractor provides information to establish that the consultant, contractor or sub-contractor has not knowingly employed or contracted with an illegal alien.

(c) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

(3) The consultant, contractor or sub-contractor for ELK is liable for any violations as provided in the Certification Ordinance. If the consultant, contractor or sub-contractor violates any provision of this paragraph N. or the Certification Ordinance, the City may terminate this Agreement for a breach of agreement. If the Agreement is so terminated, the consultant, contractor or sub-contractor shall be liable for actual and consequential damages to the City. Any such termination of the Agreement due to a violation of this paragraph N or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying ELK from submitting proposals for future contracts or agreements with the City.

O. Compliance. ELK shall ensure that all improvements are constructed in accordance with approved plans and specifications and that no material changes to these plans and specifications will occur during construction, unless approved in advance and in writing by the Director's Representative. Failure to request approval or to comply with rejections for material changes shall be legal grounds under this Agreement for construction work to be ordered to cease or to be restricted, as deemed appropriate by the Director's Representative until such approval is obtained or the unapproved work is corrected.

P. Delay. If, for any reason, construction of the Project is delayed or halted while in process for more than twenty-one (21) days, ELK shall take reasonable measures to protect the existing Project site and improvements from weather damage, erosion, vandalism and other similar threats and to protect public safety on and around the Project.

Q. Pursuit of Remedies. In the event of any material default by ELK's contractor(s) or sub-contractor(s) under the construction contracts or otherwise, ELK agrees to diligently undertake the pursuit of any remedies available against said parties, and to timely advise the City as to ELK's efforts in this regard and to allow the City's participation, if the City so requests.

R. Lien Releases. ELK shall provide the Director's Representative with complete, final and unconditional waivers or releases of all lien and claim rights from each contractor, sub-contractor, and supplier for all labor, equipment, and materials used or furnished by each for the Project.

S. Notice of Completion; Acceptance; As-Builts. ELK shall provide the Director's Representative with written notification of substantial completion in order that the City may participate in all punch list reviews and sign off on the Project. ELK shall provide the Director's Representative with written notification of final completion in order that the City may inspect all improvements as constructed and verify that the improvements have been constructed in accordance with approved plans and specifications and this Agreement without any material deviations, and the Project work is at final completion. Upon determination that the requirements set forth in this paragraph S. have been fully satisfied, the Director's Representative shall arrange with the Director to issue a written letter accepting the improvements. Detailed and stamped "as built" construction plans will be provided to the Director's Representative within sixty (60) days following the City's final inspection.

T. Compliance with Grant Terms and Conditions. ELK agrees to comply with, and assist the City with compliance with, the terms and conditions of the GOCO grant, which has been awarded to the City, and of which ELK is a Third Party Beneficiary. The requirements of the grant are set forth in the Grant Agreement between the City and GOCO, which is attached hereto as **Exhibit B**. Any termination of the Grant Agreement shall constitute termination of this Agreement unless agreed otherwise in writing between ELK and the City. ELK shall timely and reasonably provide all information, records or data required by the Grant Agreement.

5. **Term; Termination; Remedies:**

A. Term. The term of this Agreement shall commence on the Effective Date of this Agreement and shall terminate upon the completion and acceptance of the Project, except to the extent expressly provided in Section 4 of the Agreement and except for those financial obligations of ELK set forth in Section 6 below which shall continue until the City and ELK mutually agree that these obligations are satisfied; provided, however, termination of the Agreement may occur as provided in the in this Section 5.

B. Termination; Remedies. This Agreement may be terminated as follows:

(1) ELK Default. In the event that ELK shall default or breach, on its part, in the performance or fulfillment of one or more material terms or conditions of this Agreement or, as a Third Party Beneficiary, fail to comply with the Grant Agreement (“**ELK Default**”), and shall fail to cure such ELK Default within ninety (90) days following delivery of written notice from the Director to ELK specifying the ELK Default, the Director may, in the Director’s reasonable discretion, terminate this Agreement. If the Director decides to terminate the Agreement upon ELK Default not being cured by the cure deadline date, then the Director shall so notify ELK that the provisions of sub-subparagraph 5.B.5 below shall be effective on the termination date.

(2) City Default. In the event that the City shall default or breach, on its part, in the performance or fulfillment of one or more material terms or conditions of this Agreement (“**City Default**”) and shall fail to cure such City Default within ninety (90) days following delivery of written notice from ELK to the Director, ELK may, in its reasonable discretion, terminate this Agreement. If ELK decides to terminate the Agreement upon the City Default not being cured by the cure deadline date, then ELK shall so notify the Director that the provisions of sub- subparagraph 5.B.5 below shall be effective on the termination date.

(3) Time Extension. Upon mutual agreement of the parties, the time to cure any ELK Default or City Default may be extended to a date certain and the manner and extent of cure may be modified. The deadline for any cure under this subparagraph 5.B. shall not excuse the obligation of any defaulting party to take timely and proper action to prevent, stop, mitigate, or alleviate any recent or impending damage to city-owned property or any existing or imminent threat to public health and safety.

(4) Mutual Consent Termination. Upon mutual written consent, the City and ELK may terminate this Agreement, with or without cause.

(5) Effect of Termination. Upon termination of this Agreement, and to the extent necessary to enforce any remedies or judgments, the land and any improvements contained thereon shall remain the property of the City. ELK shall take all reasonable measures to turn over the portion of the city-owned property used by ELK under this Agreement to the City in a timely manner and in reasonably good condition. ELK shall remove all personal property belonging to or leased by ELK from the portion of the city-owned property used by ELK under this Agreement in a timely manner and without causing any damage. Failure by ELK

to comply with this paragraph may result in the City bringing a legal action against ELK to recover the property and the costs of restoration resulting from damage caused by ELK, and, if successful, the City shall be entitled to its attorney's fees and costs from ELK.

(6) Remedies. The parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, including actual damages, costs, expenses and attorney's fees (and including any obligations of ELK that are specified under Section 4 of this Agreement to survive termination), as may be available according to the laws and statutes of the State of Colorado; provided, however, the parties agree to and hereby release any claims for incidental, consequential, or punitive damages; provided, further, no provision of this Agreement may be enforced by the creation or recording of any type of lien against real property owned by the City, nor may any foreclosure process be utilized to recover any moneys owed by the City to ELK.

6. Funding:

A. Funding; Contingency. The City shall provide to ELK, as Third Party Beneficiary of the Grant Agreement, the costs of the Project as specified in Exhibit A to this Agreement on a reimbursement basis, and in accordance with the Grant Agreement. ELK shall provide to the City an invoice or invoices on a periodic basis as expenses are incurred. Once the City determines the invoice is responsive and complete, the City shall then reimburse ELK the amount of the invoice within a reasonable timeframe. ELK shall be responsible for paying all incurred costs of the Project that exceed the City's payment as specified in Section 4 above.

B. City's Maximum Financial Obligation: In no case shall the City's financial obligation under this Agreement exceed Five Hundred Thousand Dollars (\$500,000.00). This Agreement shall require approval of Denver City Council, as well as any subsequent proposal and amendment to expend more than \$500,000.00. Any amendment shall be approved and executed in the same manner as this Agreement.

7. Limitation on Application of Agreement: The provisions of this Agreement are intended to govern the commencement and completion of the Project and shall not be construed to prohibit, limit, or waive other agreements between the parties currently existing or entered in the future.

8. General Provisions:

A. Authority of ELK. The scope of authority that ELK may exercise with respect to the Project shall be as expressly delegated, assigned, or allowed under, or necessarily implied in, this Agreement. ELK shall have no authority to avoid, modify or waive any applicable City ordinances or regulatory requirements enacted or adopted under the City's police or taxing powers. This Agreement is not intended, nor shall this Agreement be construed, to establish or constitute a joint venture between the City and ELK.

B. Reasonable Efforts; Good Faith; Fair Dealing.

(1) Reasonable Efforts; Good Faith. ELK and the City agree to work diligently together and in good faith, using reasonable efforts to resolve any unforeseen issues and disputes and to expeditiously take such actions as are necessary and appropriate to perform the duties and obligations of this Agreement.

(2) Fair Dealing. In all cases where the consent or approval of one party is required before the other may act, or where the agreement or cooperation of the parties is separately or mutually required as a legal or practical matter, then in that event the parties agree that each will act in a fair and reasonable manner with a view to carrying out the intents and goals of this Agreement as the same are set forth herein, subject to the terms hereof, as well as the Grant Agreement; provided, however, that nothing in this Agreement shall be construed as imposing on either party any greater duty or obligation to the other than that which already exists as a matter of Colorado law, including but not limited to any fiduciary duty or other responsibility greater than that of reasonable parties contracting at arm's length.

C. Financial Interests. The parties agree and covenant that any financial interests created in, or used to secure financing and payment for the costs of, any work performed under this Agreement, including but not limited to any bonds, certificates of participation, purchase agreements, and Uniform Commercial Code filings, shall expressly exclude, and not encumber, property title, rights and interests held by the City from such debt or financial security contained in such financial instruments. The terms and conditions of this Agreement must be expressly recognized in any such financial instrument(s), which must specifically acknowledge and affirm that any financial interests created by the financial instrument(s) are subordinate to this Agreement.

D. Appropriation. Notwithstanding any provision of this Agreement to the contrary, ELK agrees that the rights and obligations of the City under this Agreement are

contingent upon all funds necessary for work or expenditures contemplated under this Agreement being budgeted, appropriated and otherwise made available by the City. ELK acknowledges that this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City, except to the extent that capital improvement funds that are lawfully appropriated can be lawfully carried over to subsequent years.

E. Non-waiver. No party shall be excused from complying with any provision of this Agreement by the failure of the other party to insist upon or to seek compliance. No assent, expressed or implied, to any failure by a party to comply with a provision of this Agreement shall be deemed or taken to be a waiver of any other failure to comply by said party.

F. Examination of Records/Audit. ELK agrees that, during the term of this Agreement and for a period of at least three (3) years after the expiration or termination of this Agreement, any duly authorized representative of the City, including the Denver Auditor or designee, shall have access to and the right to examine any directly pertinent books, documents, papers, and records of ELK involving any matter related to this Agreement. The City shall be entitled to review and audit the performance of this Agreement at the City's sole expense.

G. Applicable Law/Exercise of Authority. The parties agree to comply with all applicable Federal, State and local statutes, charter provisions, ordinances, resolutions, rules, regulations, policies, and standards in existence as of the Effective Date of this Agreement or as may be subsequently enacted or adopted and become applicable; provided, however, the City agrees that it shall not enact or adopt any ordinance, resolution, rule, regulation, policy or standard (other than those necessary to comply with a lawful citizen initiative or referendum) which would substantially interfere with or diminish the obligations and rights under this Agreement or result in effectively nullifying this Agreement, in whole or part, but otherwise this paragraph shall not limit the powers and authority of the City.

H. No Discrimination In Employment. In connection with the performance of work under this Agreement, ELK agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and ELK further agrees to insert the foregoing provision in all approved contracts and subcontracts hereunder.

I. Conflict of Interest. ELK agrees that no official, officer or employee of

the City shall have any personal or beneficial interest whatsoever in the services or property described herein, and ELK further agrees not to hire or contract for services any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12.

J. Defense & Indemnification.

(1) ELK hereby agrees to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement or operations or activities of ELK under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of ELK or ELK’s employees, agents, guests, volunteers or contractors either passive or active, irrespective of fault, including the City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

(2) ELK’s duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether an action has been filed in court on the Claim. ELK’s duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City’s negligence or willful misconduct was the sole cause of the alleged damages.

(3) ELK shall defend any and all Claims which may be brought or threatened against the City and shall pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to City and shall not be considered the City’s exclusive remedy.

(4) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of ELK under the terms of this indemnification obligation. ELK shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

(5) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

(6) Nothing in this paragraph J or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the City may have under the Colorado Governmental Immunity Act (§24-10-101, C.R.S. et seq.) or to any other defenses, immunities, or limitations of liability available to the City against third parties by law.

K. Force Majeure. ELK shall not be liable for delay or failure to perform hereunder, despite best efforts to perform, if such delay or failure is the result of *force majeure*, and any time limit expressed in this Agreement shall be extended for the period of any delay resulting from any *force majeure*. Timely notices of the occurrence and the end of such delay shall be provided by ELK when asserting *force majeure* to the City. “*Force majeure*” shall mean causes beyond the reasonable control of ELK such as, but not limited to, adverse weather conditions, acts of God or the public enemy, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty, or regulatory action of a government authority.

L. Further Assurances. From time to time, upon the request of a party, the other party agrees to make, execute and deliver or cause to be made, executed and delivered to the requesting party any and all further instruments, certificates and documents consistent with the provisions of this Agreement as may, in the reasonable opinion of the requesting party, be necessary or desirable in order to effectuate, complete or perfect the rights of said party under this Agreement, provided said requesting party is currently in full compliance with the provisions of this Agreement and has tendered or offered to tender any reciprocal instruments, certificates and documents to which the other party is entitled under the Agreement.

M. Contracting or Subcontracting.

(1) Limits on Contracting Authority. The authority delegated under this Agreement shall not be construed to grant ELK the right or power to bind, or to impose any liability upon, the City through any contracts or agreements ELK may make, unless the prior, written approval of the Director is obtained and the contract or agreement is in accordance with Applicable Law. Likewise, the City shall have no authority to bind, or to impose liability upon, ELK through any contracts or agreements the City may make, unless the prior, written approval

of ELK is obtained.

(2) Contracts Subject to this Agreement. Any work that is allowed to be contracted or subcontracted under this Agreement shall be subject, by the terms of the contract or subcontract, to every provision of this Agreement. Compliance with this provision shall be the responsibility of the party who arranged the contract or authorized the subcontract. The City shall not be liable nor have a financial obligation to or for any contractor, subcontractor, supplier, or other person or entity with which ELK contracts or has a contractual arrangement.

N. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the United States, the State of Colorado, and the applicable provisions of the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

O. 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 ELK and the City; and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such agreements. It is the express intention of ELK and the City that any person or entity other than ELK and the City receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

P. Claims. In the event that any claim, demand, suit, or action is made or brought in writing by any person or entity against one of the parties related in any way to this Agreement, the party in receipt of same shall promptly notify and provide a copy of said claim, demand, suit, or action to the other party.

Q. Notice. All notices, demands or consents required or permitted under this Agreement shall be in writing and delivered personally or sent by certified mail, return receipt requested, to the following:

To ELK: Loretta Pineda
Environmental Learning for Kids
P.O. Box 21679
Denver, Colorado 80221

To the City: Executive Director of Parks and Recreation
City and County of Denver
201 West Colfax, Department 601
Denver, Colorado 80202

City Attorney
City and County of Denver
1437 Bannock Street, Room 353
Denver, Colorado 80202

The persons or addresses set forth above may be changed at any time by written notice in the manner provided herein. Any communications between the Director's Representative and the ELK's Rep as provided under this Agreement may be made by email.

R. Entire Agreement. This Agreement, including the exhibits which are hereby incorporated into this Agreement by reference, constitutes the entire agreement of the parties. The parties agree there have been no representations, oral or written, other than those contained herein and that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.

S. Amendment. Except as otherwise expressly provided in this Agreement, this Agreement may be amended, modified, or changed, in whole or in part, only by written agreement executed by the parties in the same manner as this Agreement.

T. No Assignment. No party shall assign its rights or delegate its duties hereunder, with the exception of contracting and subcontracting as provided in this Agreement, without the prior written consent of the other party.

U. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the parties shall forthwith enter into good faith negotiations and due diligence to draft a legal term or condition that will achieve the original intent and purposes of the parties hereunder.

V. Headings for Convenience. Headings and titles contained herein are intended for the convenience and reference of the parties only and are not intended to combine, limit, or describe the scope or intent of any provision of this Agreement.

W. Authority. Each party represents and warrants that it has taken all actions that are necessary or that are required by its applicable law to legally authorize the undersigned signatories to execute this Agreement on behalf of the party and to bind the party to

its terms. The person(s) executing this Agreement on behalf of each party warrants that he/she/they have full authorization to execute this Agreement.

X. Execution of Agreement. This Agreement shall not be or become effective or binding, and shall not be dated, until it has been fully executed by all signatories of the City and ELK.

Y. Electronic Signatures and Electronic Records. ELK consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGES TO FOLLOW

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: PARKS-201733545-00

Contractor Name: ENVIRONMENTAL LEARNING FOR KIDS

By: Loretta E. Pineda

Name: Loretta E Pineda
(please print)

Title: Executive Director
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Exhibit A
Combined Scope of Work and Budget
for
GoWild Northeast Metro Coalition - GOCO Inspire Grant

Environmental Learning for Kids

Contact Person: Kim Weiss

Address 6060 Broadway, Denver, CO 80216

Phone 303-291-7554

Email kweiss@elkkids.org

Total Scope Amount: \$500,000

This outlines the Environmental Learning for Kids (ELK) scope of work related to the 2017 GOCO Inspire Implementation Award for GoWild Northeast Metro Coalition. This scope of work should be completed by May 30, 2020. The ELK Education Center construction and general contracting will be through ELK. The total scope of work is 2.6 million, however DPR is passing through \$500,000 from Great Outdoors Colorado towards the construction of the future Education Center.

Item	Description	Cost
A	ELK Education Center hard building costs and site improvements	\$500,000
Total		\$500,000

Parcel Description

(PROVIDED BY FIRST AMERICAN TITLE INSURANCE COMPANY)

A PART OF LOT 7, BLOCK 1, KOLL PEORIA CENTER FILING NO. 1, BEING A SUBDIVISION SITUATED IN THE NW 1/4 OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, ACCORDING TO THE PLAT THEREOF RECORDED IN THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE AT RECEPTION NUMBER 990000721, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A RANGE POINT IN ALBROOK DRIVE, BEING A 20 FOOT RANGE LINE, AS MONUMENTED BY A RECOVERED 3-1/4" ALUMINUM CAP IN A RANGE BOX, STAMPED "PLS 37993", WHENCE A RANGE POINT IN SAID ALBROOK DRIVE, BEING ON A 20 FOOT RANGE LINE AND A POINT OF CURVATURE, AS MONUMENTED BY A RECOVERED #8 REBAR IN A RANGE BOX, BEARS S68°00'00"E, A DISTANCE OF 414.81 FEET, FORMING THE BASIS OF BEARING USED IN THIS DESCRIPTION WITH ALL BEARINGS BEING RELATIVE THERETO;

THENCE DEPARTING AND PERPENDICULAR TO SAID 20 FOOT RANGE LINE, S22°00'00"W, A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF ALBROOK DRIVE, SAID POINT ALSO BEING THE MOST NORTHERLY BOUNDARY CORNER OF SAID LOT 7;

- THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, ALSO BEING THE NORTHERLY BOUNDARY OF SAID LOT 7, BEING 50.00 FEET SOUTHWESTERLY OF AND PARALLEL WITH SAID 20 FOOT RANGE LINE, THE FOLLOWING TWO COURSES:
1) S68°00'00"E, A DISTANCE OF 414.81 FEET TO A POINT OF CURVATURE;
2) ALONG A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 00°31'43", A RADIUS OF 965.00 FEET AND AN ARC LENGTH OF 8.90 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING ALONG THE LAST DESCRIBED COURSE BEING A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 11°34'03", A RADIUS OF 965.00 FEET AND AN ARC LENGTH OF 194.83 FEET TO THE NORTHEAST BOUNDARY CORNER OF SAID LOT 7;
THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LINE ALONG THE EXTERIOR BOUNDARY OF SAID LOT 7 THE FOLLOWING EIGHT COURSES:
1) S40°30'09"W, A DISTANCE OF 150.00 FEET;
2) S52°05'31"E, A DISTANCE OF 133.14 FEET;
3) S49°30'02"E, A DISTANCE OF 125.00 FEET;
4) S40°29'58"W, A DISTANCE OF 60.00 FEET;
5) S29°59'56"W, A DISTANCE OF 98.77 FEET;
6) S40°29'58"W, A DISTANCE OF 9.00 FEET TO A POINT OF CURVATURE;
7) ALONG A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 49°30'00", A RADIUS OF 245.00 FEET AND AN ARC LENGTH OF 211.66 FEET;
8) S90°00'00"W, A DISTANCE OF 441.91 FEET TO THE SOUTHWEST BOUNDARY CORNER OF SAID LOT 7;

THENCE ALONG WESTERLY BOUNDARY LINE OF SAID LOT 7, N00°00'00"E, A DISTANCE OF 275.67 FEET;
THENCE DEPARTING AND PERPENDICULAR TO THE LAST DESCRIBED COURSE, S90°00'00"E, A DISTANCE OF 283.86 FEET;
THENCE N22°00'00"E, A DISTANCE OF 124.39 FEET;
THENCE PERPENDICULAR TO THE LAST DESCRIBED COURSE, S68°00'00"E, A DISTANCE OF 33.70 FEET;
THENCE PERPENDICULAR TO THE LAST DESCRIBED COURSE, N22°00'00"E, A DISTANCE OF 231.67 FEET TO THE POINT OF BEGINNING,
CITY AND COUNTY OF DENVER, STATE OF COLORADO

DEED RECORDED ON 12/16/2014 AT REC. NO. 2014153574

Boundary Closure Report

LENGTH: 194.84' RADIUS: 965.00'
DELTA: 011°34'05"
CHORD: 194.51' COURSE: S62°03'39"E
COURSE: S40°07'47"W LENGTH: 150.00'
COURSE: S52°27'53"E LENGTH: 133.14'
COURSE: S49°52'24"E LENGTH: 125.00'
COURSE: S40°07'36"W LENGTH: 60.00'
COURSE: S29°37'34"W LENGTH: 98.77'
COURSE: S40°07'36"W LENGTH: 9.00'
LENGTH: 211.66' RADIUS: 245.00'
DELTA: 049°30'00"
CHORD: 205.14' COURSE: S64°52'36"W
COURSE: S89°37'38"W LENGTH: 441.91'
COURSE: N00°22'22"W LENGTH: 275.67'
COURSE: N89°37'38"E LENGTH: 283.86'
COURSE: N21°37'38"E LENGTH: 124.39'
COURSE: S68°22'22"E LENGTH: 33.70'
COURSE: N21°37'38"E LENGTH: 231.67'

PERIMETER: 2373.61'
ERROR CLOSURE: 0.01
PRECISION 1: 236676.00

Indexing Statement

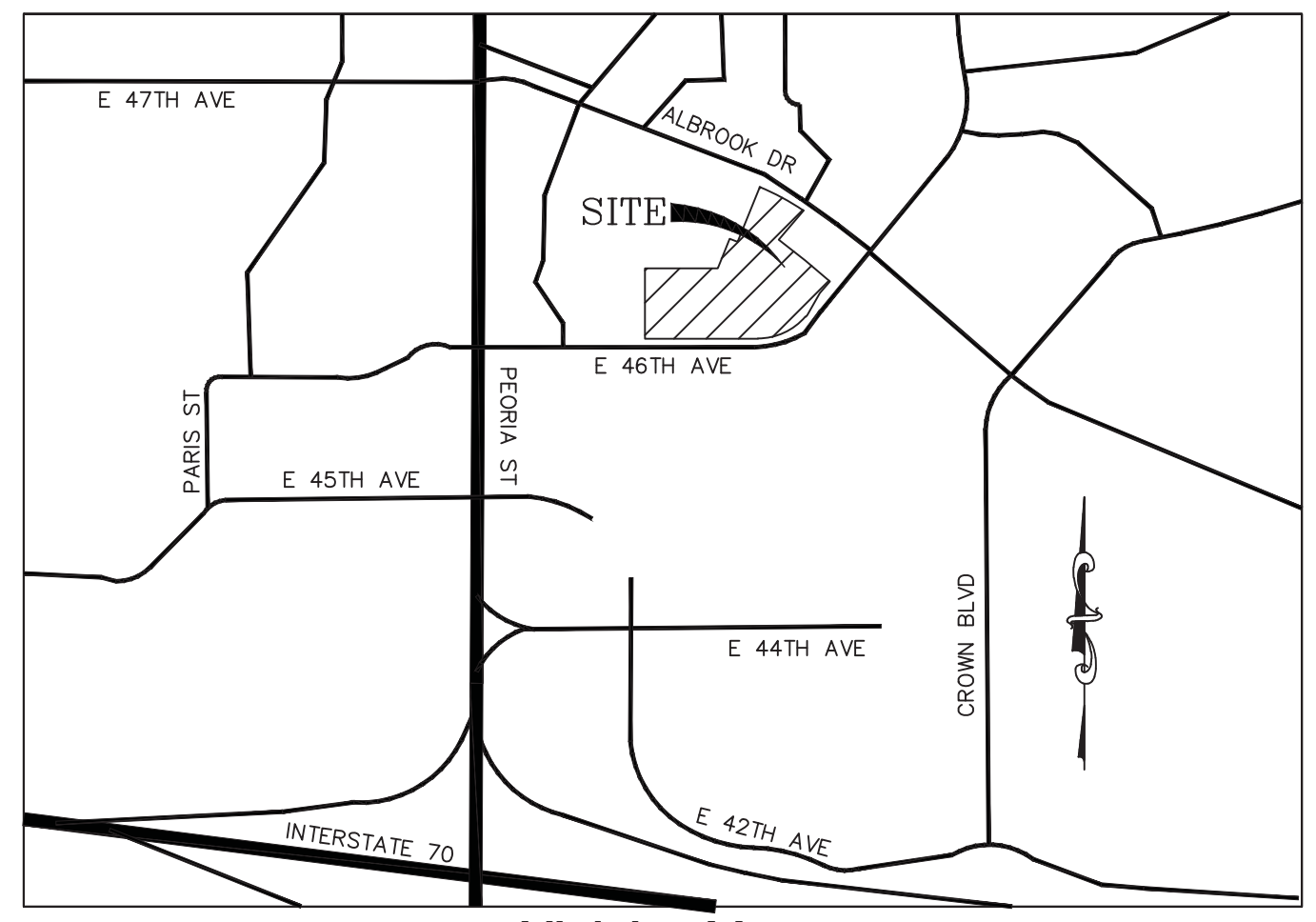
DEPOSITED THIS ___ DAY OF _____, 20___ AT _____ M., IN BOOK _____ OF THE COUNTY SURVEYOR'S LAND SURVEY/RIGHT-OF-WAY SURVEYS AT PAGE(S) _____ RECEPTION NUMBER _____

COUNTY SURVEYOR/DEPUTY COUNTY SURVEYOR

IMPROVEMENT SURVEY PLAT

A PORTION OF LOT 7, BLOCK 1, KOLL PEORIA CENTER FILING NO. 1 SUBDIVISION, LOCATED IN THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 1 OF 3



Vicinity Map NOT TO SCALE

Notes

- 1. FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT NUMBER 558398-2, DATED SEPTEMBER 23, 2013 AT 5:00 P.M., WAS ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY SHOWN AND DESCRIBED HEREON IS ALL OF THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENT.
2. ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. THIS IMPROVEMENT SURVEY PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF ANDERSON HALLAS ARCHITECTS, NAMED IN THE STATEMENT HEREON. SAID STATEMENT DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS STATEMENT BY THE SURVEYOR NAMING SAID PERSON.
4. THIS SURVEY IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
5. BASIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF S89°37'38"W ALONG THE SOUTH LINE OF THE SUBJECT PROPERTY, BETWEEN A FOUND #4 REBAR WITH 1 1/4" ORANGE PLASTIC CAP, STAMPED NOBBE LS 23899" ON SAID SOUTH LINE AND A FOUND #4 REBAR WITH 1 1/4" ORANGE PLASTIC CAP, STAMPED "PLS 34183" AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY AS SHOWN HEREON, COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
6. THE LOCATIONS FOR UNDERGROUND UTILITIES ARE BASED UPON VISIBLE SURFACE EVIDENCE AND MAPS PROVIDED BY THE APPROPRIATE UTILITY COMPANIES AND MUNICIPALITIES AND PAINT MARKINGS BY A PRIVATE LOCATOR. LOCATIONS OF UNDERGROUND UTILITIES AND/OR STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES AND/OR STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROCESS OF THIS SURVEY TO LOCATE BURIED UTILITIES AND/OR STRUCTURES. ALL UNDERGROUND UTILITIES SHOULD BE FIELD LOCATED BY THE APPROPRIATE UTILITY COMPANY PRIOR TO ANY CONSTRUCTION OR EXCAVATION ON OR ADJACENT TO THE SUBJECT PROPERTY.
7. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508.
8. THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
9. THE CONTOURS REPRESENTED HEREON WERE INTERPOLATED BY AUTOCAD CIVIL 3D (DIGITAL TERRAIN MODELING) SOFTWARE BETWEEN ACTUAL MEASURED SPOT ELEVATIONS. DEPENDING ON THE DISTANCE FROM A MEASURED SPOT ELEVATION AND LOCAL VARIATIONS IN TOPOGRAPHY, THE CONTOUR SHOWN MAY NOT BE AN EXACT REPRESENTATION OF THE SITE TOPOGRAPHY. THE PURPOSE OF THIS TOPOGRAPHIC MAP IS FOR SITE EVALUATION AND TO SHOW SURFACE DRAINAGE FEATURES. ADDITIONAL TOPOGRAPHIC OBSERVATIONS MAY BE NECESSARY IN SPECIFIC AREAS OF DESIGN. TOPOGRAPHY SHOWN HEREON COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS.
10. BENCHMARK INFORMATION: A GPS DERIVED ELEVATION WAS ESTABLISHED AT AN ONSITE BENCHMARK AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY, BEING A FOUND #4 REBAR WITH A 1 1/4" ORANGE PLASTIC CAP, STAMPED "PLS 34183" WITH AN ELEVATION OF 5325.27 FEET. A CHECK SHOT, 0.1±, WAS TAKEN ON CITY AND COUNTY OF DENVER POINT 702, BEING A "BRASS CAP IN THE SOUTHEAST CORNER, TOP OF CURB" AT THE INTERSECTION OF PEORIA STREET AND ALBROOK DRIVE LOCATED 0.2 MILES FROM SITE, WITH A PUBLISHED ELEVATION OF 5310.48 FEET (NAVD88). NO DIFFERENTIAL LEVELING WAS PERFORMED TO ESTABLISH THIS ELEVATION.
11. SUBSURFACE BUILDINGS, IMPROVEMENTS OR STRUCTURES ARE NOT NECESSARILY SHOWN. BUILDINGS AND OTHER IMPROVEMENTS OR STRUCTURES ON ADJACENT PROPERTIES THAT ARE MORE THAN FIVE (5) FEET FROM ANY OF THE PROPERTY LINES OF THE SUBJECT PROPERTY ARE NOT NECESSARILY SHOWN.
12. FLOOD INFORMATION: THE SUBJECT PROPERTY IS LOCATED IN ZONE X UNSHADED, AREAS

DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AND/OR ZONE D, AREAS IN WHICH FLOOD HAZARDS ARE UNDETERMINED, BUT POSSIBLE, ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP; COMMUNITY-PANEL NO. 0800460114 G (PANEL NOT PRINTED ALL IN ZONE X), DATED NOVEMBER 17, 2005. THE MAP DOES NOT DIFFERENTIATE BETWEEN ZONE X UNSHADED AND ZONE D. FLOOD INFORMATION IS SUBJECT TO CHANGE.

- 13. DATES OF FIELDWORK: MAY 15 AND MAY 18, 2015 (CURRENT JOB), OCTOBER 16, 2013 (FLATIRONS, INC. JOB #12-60,482), AND JANUARY 17, 2008 (FLATIRONS, INC. JOB #08,54020).
14. THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE COMMITMENT AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE COMMITMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.
#07 OCT. 06, 1886 BOOK 274, PAGE 100 RIGHT OF A PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE AVIGATION NOISE AND HAZARD EASEMENT (BLANKET)
#10 JUL. 07, 1989 REC. NO. 60626
#13 OCT. 29, 1998 REC. NO. 9800181257 TERMS, CONDITIONS, PROVISIONS, EASEMENTS AND AGREEMENTS AS SET FORTH IN THE EASEMENT AND AGREEMENT (BLANKET INDEMNITY)
#14 DEC. 21, 1998 REC. NO. 9800214807 TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS, EASEMENTS AND AGREEMENTS AS SET FORTH IN THE DECLARATION OF EASEMENTS (BLANKET) AGREEMENT NOT TO SELL TRACT A WITH LOT 7
#15 JAN. 04, 1999 REC. NO. 9900000721 EASEMENTS, NOTES, COVENANTS, RESTRICTIONS AND RIGHTS-OF-WAY AS SHOWN ON THE PLAT OF KOLL PEORIA CENTER FILING NO. 1 (EASEMENTS SHOWN)
#16 FEB. 19, 1999 REC. NO. 9900029989 TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS SET FORTH IN THE DETENTION POND AND PERMIT COVENANT DENVER ASSESSOR PARCEL RECONFIGURATION (DESCRIPTION IS ALL OF SUBJECT PROPERTY)
#18 DEC. 17, 2009 REC. NO. 2009162834
15. THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE COMMITMENT AND DO NOT APPEAR TO AFFECT THE SUBJECT PROPERTY. THE FOLLOWING LIST CONTAINS THE TITLE COMMITMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.
#11 JUL. 06, 1994 REC. NO. 9400108277 COVENANTS, CONDITIONS, RESTRICTIONS, PROVISIONS, EASEMENTS AND ASSESSMENTS AS SET FORTH IN DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS (BLANKET)
16. OWNERSHIP INFORMATION IS PER CITY AND COUNTY OF DENVER WEBSITE AS RESEARCHED ON MAY 20, 2015 AND IS SUBJECT TO CHANGE.
17. THE MAJORITY OF FOUND MONUMENTS FALL WITHIN MEASUREMENT TOLERANCES. HOWEVER THE FOUND #4 REBAR, WITH AN ILLEGIBLE BROKEN YELLOW PLASTIC CAP SHOWN AS SHOWN HEREON AS OUT OF POSITION, ARE OUTSIDE OF MEASUREMENT TOLERANCES AND ARE NOT AT THE BOUNDARY CORNERS AS SHOWN HEREON.
18. CONCRETE EXTENDS ACROSS AN EASTERLY PROPERTY LINE, AS SHOWN HEREON.
19. ELECTRIC SERVICE LINE TO THE EASTERLY ADJOINER'S BUILDING APPEARS TO FALL OUTSIDE THE 5' UTILITY EASEMENT AS SHOWN HEREON.

Surveyor's Statement

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., TO ANDERSON HALLAS ARCHITECTS, THAT A SURVEY OF THE ABOVE DESCRIBED PREMISES WAS CONDUCTED BY ME OR UNDER MY RESPONSIBLE CHARGE ON MAY 20, 2015; THAT SAID SURVEY AND THE ATTACHED PRINT HEREON WERE MADE IN SUBSTANTIAL ACCORDANCE WITH C.R.S. 38-51-102 (9) "IMPROVEMENT SURVEY PLAT".

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

Table with columns for REVISION and DATE, containing a grid for recording changes.

IMPROVEMENT SURVEY PLAT PREPARED FOR ANDERSON HALLAS ARCHITECTS COPYRIGHT 2015 FLATIRONS, INC.

Flatirons, Inc. Surveying, Engineering & Geomatics www.flatironsinc.com 655 FOURTH AVE 3825 IRLS AVE, STE. 395 LONGMONT, CO 80501 PH: (303) 776-1733 PH: (303) 443-7001 PH: (303) 443-5355 FAX: (303) 776-9830 FAX: (303) 443-9830 PH: (303) 936-6997



PROFESSIONAL LAND SURVEYOR SEAL

JOB NUMBER: 15-65,608 DATE: 05-21-2015 DRAWN BY: M. VOYLES CHECKED BY: WW/TAC/ETB

BY:WVYLES FILE:65608_ISP.DWG DATE:5/22/2015 3:14 PM

GENERAL NOTES:

- DS APPROVAL DOES NOT CONSTITUTE A NOTICE TO PROCEED. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING APPROPRIATE CONSTRUCTION PERMITS.
- IMPROVEMENTS MADE WITHIN THE PUBLIC ROW SHALL BE PERFORMED BY A LICENSED AND BONDED ROW CONTRACTOR AND REQUIRE INSPECTION BY THE CITY AND COUNTY PRIOR TO ISSUANCE OF A TEMPORARY CERTIFICATE OF OCCUPANCY (TCO) OR CERTIFICATE OF OCCUPANCY (CO)
- ALL WORK SHALL CONFORM TO CURRENT CITY AND COUNTY OF DENVER SPECIFICATIONS. IF THE CONSTRUCTION ENGINEERING INSPECTOR FINDS A PROBLEM ON THE APPROVED PLANS DURING CONSTRUCTION THAT CONFLICT WITH A CCD STANDARD, THE INSPECTOR MAY HALT CONSTRUCTION UNTIL THE ISSUE IS RESOLVED.
- CONSTRUCTION SHALL COMMENCE WITHIN ONE YEAR OF TEP APPROVAL. AFTER ONE YEAR, TEP APPROVAL EXPIRES AND RESUBMITTAL/APPROVAL OF TEP IS REQUIRED.
- CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL PROJECT PERMITS ASSOCIATED WITH CONSTRUCTION. IMPROVEMENTS MADE WITHIN THE PUBLIC ROW TOTALING MORE THAN \$20,000 REQUIRE A PERFORMANCE BOND PRIOR TO BEGINNING ANY WORK IN THE ROW. CONTACT CONSTRUCTION ENGINEERING AT (303 446-3469) TWO WEEKS BEFORE ANY CONSTRUCTION PERMIT NEEDS.
- PERMITTEE SHALL NOTIFY THE CONSTRUCTION ENGINEERING INSPECTOR: 1) TWO WORKING DAYS BEFORE COMMENCING WORK IN ROW; 2) WHEN SUSPENDING OPERATIONS IN ROW FOR 5 OR MORE WORKING DAYS; 3) TWO WORKING DAYS BEFORE RESUMING SUSPENDED ROW WORK; 4) UPON COMPLETION OF ROW WORK.
- CONTRACTOR SHALL MAINTAIN AT LEAST ONE PRINTED COPY OF THE APPROVE PLANS, SPECIFICATIONS AND STANDARDS ON THE JOB SITE AT ALL TIMES.
- CONTRACTOR IS RESPONSIBLE FOR BEING AWARE OF, NOTIFYING, COORDINATING AND SCHEDULING ALL INSPECTIONS REQUIRED FOR FINAL APPROVALS AND PROJECT ACCEPTANCE.
- PRIOR TO FINAL ACCEPTANCE, ALL DISTURBED PORTIONS OF ROADWAY ROW SHALL BE CLEANED UP AND RESTORED TO THEIR ORIGINAL CONDITION, SUBJECT TO CITY AND COUNTY APPROVAL.
- ALL WORKS, INCLUDING CORRECTION WORK, IS SUBJECT TO NOTIFICATION AND INSPECTION REQUIREMENTS.
- ALL WORK, INCLUDING CORRECTION WORK, IS SUBJECT TO NOTIFICATION AND INSPECTION REQUIREMENTS.
- NO WORK SHALL BE PERMITTED AT NIGHT OR ON SATURDAYS, SUNDAYS, OR HOLIDAYS WITHOUT PRIOR AUTHORIZATION OR UNLESS OTHERWISE SPECIFIED IN THE PERMIT. THE CITY AND COUNTY MAY RESTRICT WORK IN ROW DURING ADVERSE WEATHER CONDITIONS OR DURING PERIODS OF HIGH TRAFFIC VOLUME.
- COORDINATE ALL STREET OCCUPANCY OR STREET CUT PERMITS WITH CONSTRUCTION ENGINEERING 2 WEEKS PRIOR TO COMMENCEMENT OF WORK.
- IN THE EVENT THAT AN EMERGENCY REPAIR TO EXISTING FACILITIES IS NECESSARY, THE CONSTRUCTION ENGINEERING INSPECTOR SHALL IMMEDIATELY BE NOTIFIED OF POSSIBLE TRAFFIC HAZARDS. EMERGENCY PROCEDURES SHALL BE COORDINATED BEFOREHAND, WHERE POSSIBLE. NO WORK WILL BE ALLOWED UNTIL NOTIFICATION IS RECEIVED. EMERGENCY TELEPHONE NOTIFICATION MUST BE FOLLOWED UP WITH A LETTER AS SOON AS POSSIBLE.
- CONTRACTOR IS RESPONSIBLE FOR PROVIDING AND MAINTAINING ADEQUATE TRAFFIC CONTROL THROUGHOUT THE PROJECT, INCLUDING PROPER TRAFFIC CONTROL DEVICES AND/OR PERSONNEL AS REQUIRED. A TRAFFIC CONTROL PLAN (TCP) IS SUBJECT TO CCD AND/OR CDOT APPROVAL PRIOR TO COMMENCING WORK ON ROADWAY ROW. A COPY OF APPROVED TCPS MUST BE AVAILABLE ON SITE DURING WORK. TRAFFIC CONTROL IS TO BE IN ACCORDANCE WITH THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD), SECTION VI.
- CLOSURES OF ARTERIAL ROADS OR INTERSECTIONS SHALL REQUIRE SITE SPECIFIC TRAFFIC CONTROL PLANS.
- ALL TRAFFIC CONTROL PLANS AND SCHEDULES MUST BE APPROVED BY CONSTRUCTION ENGINEERING PRIOR TO STREET OCCUPANCY OR STREET CUT PERMIT SUBMITTAL.
- THE DEVELOPER IS RESPONSIBLE FOR ANY MODIFICATIONS TO EXISTING PAVEMENT MARKINGS NECESSITATED BY THIS DEVELOPMENT. PROPOSED PAVEMENT MARKING MUST BE PER PUBLIC WORKS TRAFFIC ENGINEERING SERVICES (TES) STANDARDS. ALL MARKINGS MUST BE INSTALLED ACCORDING TO MANUFACTURER'S SPECIFICATIONS.
- OWNER MUST ACQUIRE A MGEPC COMPLIANT QUALITY CONTROL LABORATORY PRIOR TO STARTING CONSTRUCTION AND MUST PERFORM ALL QUALITY CONTROL TESTING WITHIN THE RIGHT-OF-WAY FOLLOWING THE MGEPC FREQUENCY FOR TESTING. THE CCD WILL ONLY PROVIDE QUALITY ASSURANCE.
- A MONUMENT RECORD MUST BE FILED WITH THE CITY AND COUNTY SURVEYOR'S OFFICE, THROUGH PUBLIC WORKS PLANS REVIEW SERVICES (PWPRS), ON ALL CROSSES ON CURB HEADS, BENCHMARKS, RANGE POINTS AND SECTION CORNERS SO THEY CAN BE REPLACED AFTER CONSTRUCTION. THE MONUMENT RECORD MUST BE FILED WITH THE CITY AND COUNTY SURVEYOR'S OFFICE BEFORE THE PLAN AND PROFILES CAN BE APPROVED. THIS MUST BE DONE BY A PROFESSIONAL LICENSED LAND SURVEYOR. THESE MONUMENTS MUST BE REPLACED BY THE DEVELOPER'S SURVEYOR BEFORE NEW CONSTRUCTION CAN BE ACCEPTED BY CCD.
- ALL RANGE POINTS, TIES, BENCHMARKS, OR OTHER CD SURVEY CONTROL POINTS, WHICH MAY BE ENCOUNTERED DURING CONSTRUCTION, MUST BE PRESERVED.
- THE CONTRACTOR SHALL CONTACT ALL APPROPRIATE UTILITY COMPANIES AND CONSTRUCTION ENGINEERING THREE DAYS PRIOR TO THE BEGINNING OF ANY CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING ANY EXISTING UTILITY (INCLUDING DEPTHS) WHICH MAY CONFLICT WITH THE PROPOSED CONSTRUCTION. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES FROM DAMAGE. DAMAGED UTILITIES SHALL BE REPAIRED BY AND AT THE EXPENSE OF THE CONTRACTOR.
- RELOCATION OF UTILITIES SUCH AS POWER POLES AND FIRE HYDRANTS THAT LIE WITHIN THE PUBLIC ROW WILL BE THE COST OF THE DEVELOPER AND SHALL BE COORDINATED WITH THE APPROPRIATE UTILITY OF AGENCY.
- PROPOSED LIGHT FIXTURES INSTALLED ON PRIVATE PROPERTY ADJACENT TO THE PUBLIC ROW SHALL BE ORIENTED IN SUCH A MANNER OR LIMITED IN LUMEN OUTPUT TO PREVENT GLARE PROBLEMS AND SHALL NOT EXCEED NATIONAL I.E.S. LIGHTING STANDARDS FOR DISABILITY GLARE.
- THE DEVELOPER SHALL PAY XCEL ENERGY FOR THE CONSTRUCTION AND/OR RELOCATION OF STREETLIGHTS WITHIN THE PUBLIC ROW. THE STREETLIGHTS SHALL BE CONSTRUCTED AND/OR RELOCATED TO THE CURRENT CITY AND COUNTY STANDARDS AND COORDINATED THROUGH EXCEL ENERGY.
- WHEN AN EXISTING ASPHALT STREET IS CUT, THE STREET MUST BE RESTORED TO A CONDITION EQUAL OR BETTER THAN ITS ORIGINAL CONDITION. THE EXISTING STREET CONDITION SHALL BE DOCUMENTED BEFORE ANY CUTS ARE MADE. PATCHING SHALL BE DONE IN CONFORMANCE WITH THE PROJECT STANDARDS. THE FINISHED PATCH SHALL BLEND SMOOTHLY INTO THE EXISTING SURFACE. ALL LARGE PATCHES SHALL BE PAVED WITH AN ASPHALT LAY-DOWN MACHINE.
- PATCH ASPHALT PAVING AS NECESSARY TO JOIN NEW GUTTERS WITH THE EXISTING PAVEMENT. REMOVAL AND REPLACEMENT OF ASPHALT SHALL BE PER THE LATEST STANDARDS AND DETAILS FOR ENGINEERING DIVISION.
- CONSTRUCTION OF ANY PORTION OF THE ROADWAY FACILITY, INCLUDING THE PAVEMENT STRUCTURE, SUBSURFACE SUPPORT, DRAINAGE, LANDSCAPING ELEMENTS, AND ALL APPURTENANT FEATURES SHALL COMPLY WITH THE PROVISIONS OF THE CITY AND COUNTY STANDARD SPECIFICATIONS AND STANDARD PLANS.
- WHERE CONSISTENT WITH SAFETY AND SPACE CONSIDERATIONS, EXCAVATED MATERIAL IS TO BE PLACED ON THE UPHILL SIDE OF TRENCHES.
- ALL CONCRETE WORK REQUIRES FULL PANEL REPLACEMENT.
- MATERIAL REMOVED FROM ANY PORTION OF THE ROADWAY PRISM MUST BE REPLACED IN LIKE KIND WITH EQUAL OR BETTER COMPACTION. NO SEGREGATION OF MATERIAL WILL BE PERMITTED.
- ANY EXISTING CURB, GUTTER, DRIVEWAYS, AND SIDEWALK THAT IS FAILING OR DAMAGED MUST BE REPAIRED OR REPLACED AT THE DIRECTION OF CONSTRUCTION ENGINEERING.
- PROTECTION AND REPLACEMENT OF STREET IMPROVEMENTS ARE THE RESPONSIBILITY OF THE OWNER UNTIL THESE IMPROVEMENTS ARE FULLY COMPLETED AND ACCEPTED BY THE CITY AND COUNTY.
- THE PERMITTEE SHALL NOT SPRAY, CUT, OR TRIM TREES OR THE OTHER LANDSCAPING ELEMENTS WITHIN ROW UNLESS SUCH WORK IS OTHERWISE SPECIFIED IN THIS PERMIT OF CLEARLY INDICATED ON THE APPROVED PLANS.
- SEEDING, SODDING, AND PLANTING IN THE ROW SHALL BE AS SPECIFIED OR OTHERWISE APPROVED BY THE CITY AND COUNTY. CONSTRUCTION, MAINTENANCE, AND WATERING REQUIREMENTS SHALL CONFORM TO CITY AND COUNTY STANDARD SPECIFICATIONS. WHERE LANDSCAPE RESTORATION MUST BE DELAYED DUE TO SEASONAL REQUIREMENTS, SUCH WORK MAY BE AUTHORIZED BY A SEPARATE PERMIT.

ENVIRONMENTAL LEARNING FOR KIDS

SITE DEVELOPMENT PLAN

12680 Albrook Dr Denver, CO 80239

LOCATED IN THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO



VICINITY MAP

- UNLESS STREETScape HAS BEEN APPROVED, THE DEVELOPER SHALL LANDSCAPE ALL ROW WITH SOIL AND TREES. ALL LANDSCAPING WITHIN THE ROW SHALL BE IN CONFORMANCE WITH THE LATEST STREETScape DESIGN MANUAL. NO LOOSE MATERIAL (I.E., ROCK, BARK, GRAVEL, ETC.) SHALL BE ALLOWED. DECORATIVE CONCRETE OR LOW GROWING PLANT MATERIAL MAY BE ALLOWED ONLY WITH THE SPECIFIC APPROVAL OF DS. TREES SHALL BE PRE-APPROVED BY THE CITY AND COUNTY FORESTER'S OFFICE AND SHALL BE A MINIMUM OF 20' FROM PROPERTY CORNERS AT INTERSECTIONS, 25' FROM STREET LIGHTS AND 10' FROM EDGE OF DRIVEWAYS.
- THE PERMITTEE SHOULD REMOVE MATERIALS AND EQUIPMENT FROM THE ROADWAY ROW AT THE CLOSE OF DAILY OPERATIONS. THE TRAFFIC CONTROL PLAN (TCP) MUST INCLUDE PROTECTIVE MEASURES WHERE MATERIALS AND EQUIPMENT MAY BE STORED IN ROW, BUT ENSURE FIVE FEET OF PEDESTRIAN CLEARANCE ON SIDEWALKS.
- NO CLEARED OR TRACKED EQUIPMENT MAY WORK IN OR MOVE OVER PAVED SURFACES WITHOUT MATS.
- STREET CUT IN TO MORATORIUM STREETS WILL REQUIRE EITHER AN OVERLAY OR INFRA-RED PATCH. COORDINATE MORATORIUM STREET REQUIREMENTS WITH CONSTRUCTION ENGINEERING.

- | | |
|------|--------------------------------|
| TEP1 | COVER SHEET |
| SP1 | SITE PLAN |
| PP1 | ALBROOK DRIVE PLAN AND PROFILE |
| PP2 | E 46TH AVENUE PLAN AND PROFILE |
| XS1 | CROSS SECTIONS 1 OF 3 |
| XS2 | CROSS SECTIONS 2 OF 3 |
| XS3 | CROSS SECTIONS 3 OF 3 |

SITE SPECIFIC NOTES

- A SEWER USE AND DRAINAGE PERMIT, ISSUED BY PWPO, MUST BE OBTAINED FOR CONSTRUCTION INVOLVING SANITARY OR STORM SEWER FACILITIES.
- A PERMIT MUST BE OBTAINED FOR PRIVATE IMPROVEMENTS CONSTRUCTED WITHIN THE PUBLIC RIGHT OF WAY (R.O.W.). CONTACT PWPO AND/OR CONSTRUCTION ENGINEERING ROW DISTRICT INSPECTOR.

PROJECT NOTES:

- ALL STATIONING IS BASED ON FLOWLINE OF THE ROADWAYS AS SHOWN, UNLESS OTHERWISE NOTED.
- BENCHMARK: FOUND ON SOUTHWEST CORNER OF THE PROPERTY, #4 REBAR WITH 1 1/2" ORANGE PLASTIC CAP, STAMPED "PLS 34183" ONSITE BENCHMARK, ELEVATION: 5325.27'

BASIS OF BEARING

- GPS DERIVED BEARINGS ON A BEARING OF S89°37'38" ALONG THE SOUTH LINE OF THE SUBJECT PROPERTY, BETWEEN A FOUND #4 REBAR WITH 1 1/2" ORANGE PLASTIC CAP, STAMPED NOBBE LS 23899" ON SAID SOUTH LINE AND A FOUND #4 REBAR WITH 1 1/2" ORANGE PLASTIC CAP, STAMPED "PLS 34183" AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.

BENCHMARK

- A GPS DERIVED ELEVATION WAS ESTABLISHED AT AN ONSITE BENCHMARK AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY, BEING A FOUND #4 REBAR WITH A 1 1/2" ORANGE PLASTIC CAP, STAMPED "PLS 34183" WITH AN ELEVATION OF 5325.27 FEET. A CHECK SHOT, 0.1+/- WAS TAKEN ON CITY AND COUNTY OF DENVER POINT 702, BEING A "BRASS CAP IN THE SOUTHEAST CORNER, TOP OF CURB" AT THE INTERSECTION OF PEORIA STREET AND ALBROOK DRIVE LOCATED 0.2 MILES FROM SITE, WITH A PUBLISHED ELEVATION OF 5310.48 FEET (NAVD88). NO DIFFERENTIAL LEVELING WAS PERFORMED TO ESTABLISH THIS ELEVATION.

LEGEND

---	PROPERTY BOUNDARY	⊕	FIRE HYDRANT
- - -	EASEMENT	⊕	STORM MANHOLE
---	PROPOSED UNDERGROUND ELECTRIC	⊕	SANITARY MANHOLE
---	PROPOSED TELEPHONE	⊕	WATER VALVE
---	PROPOSED SANITARY SEWER	⊕	SIGN
---	PROPOSED WATER	⊕	TELEPHONE PEDESTAL
---	PROPOSED WATER-NON-POTABLE	⊕	UTILITY POLE
---	PROPOSED STORM SEWER	⊕	TWO WAY CLEANOUT
---	PROPOSED FIBER OPTIC LINE	⊕	METER (IRRIGATION)
---	EXISTING FIBER OPTIC LINE	⊕	BACKFLOW DEVICE (IRRIGATION)
---	EXISTING STORM DRAIN	⊕	BACKFLOW DEVICE (POTABLE)
---	EXISTING SANITARY	⊕	METER (POTABLE)
---	EXISTING WATER	⊕	EXISTING LIGHT POLE
---	IRRIGATION WATER	⊕	

City and County of Denver Development Services Site Engineering	
Checked for General Compliance with applicable Denver Criteria, Rules, Regulations and Standards.	
APPROVED (if validly signed)	
This approval becomes void if construction is not started within one (1) year of the approval date.	
Approved by _____	Date _____
(Note: Signature in Print)	Review Engineer
APPROVED AS TO FORM. ENGINEERING CALCULATIONS, DRAWINGS AND DESIGN ADEQUACY ARE ACCEPTED BASED UPON THE PROJECT ENGINEER'S ATTACHED SEAL OF REGISTRATION.	
THIS APPROVAL IS FOR (PRIVATE)/(PUBLIC) (STORM)/(SANITARY) SEWER (RIGHT OF WAY IMPROVEMENTS)	
CALL THE UTILITY NOTIFICATION CENTER OF COLORADO AT 811	
THREE (3) BUSINESS DAYS IN ADVANCE BEFORE DIGGING, GRADING OR EXCAVATION FOR MARKING OF MEMBER'S UNDERGROUND UTILITIES	
(Project Engineer's Professional Engineer Seal, Signature and Date)	
DES PROJECT NO. #	
PROJECT NAME: Environmental Learning for Kids	
DESIGNED BY DATE EHS 5-10-16	DATE ISSUED: 5-10-16
DRAWN BY DATE PL 5-10-16	DRAWING NO. 1
CHECKED BY DATE EHS 5-10-16	SHEET 1 OF 7 SHEETS

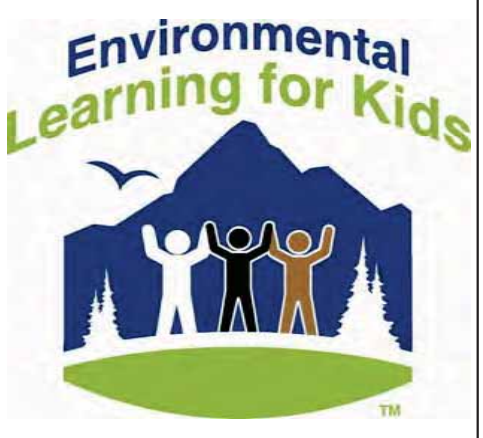


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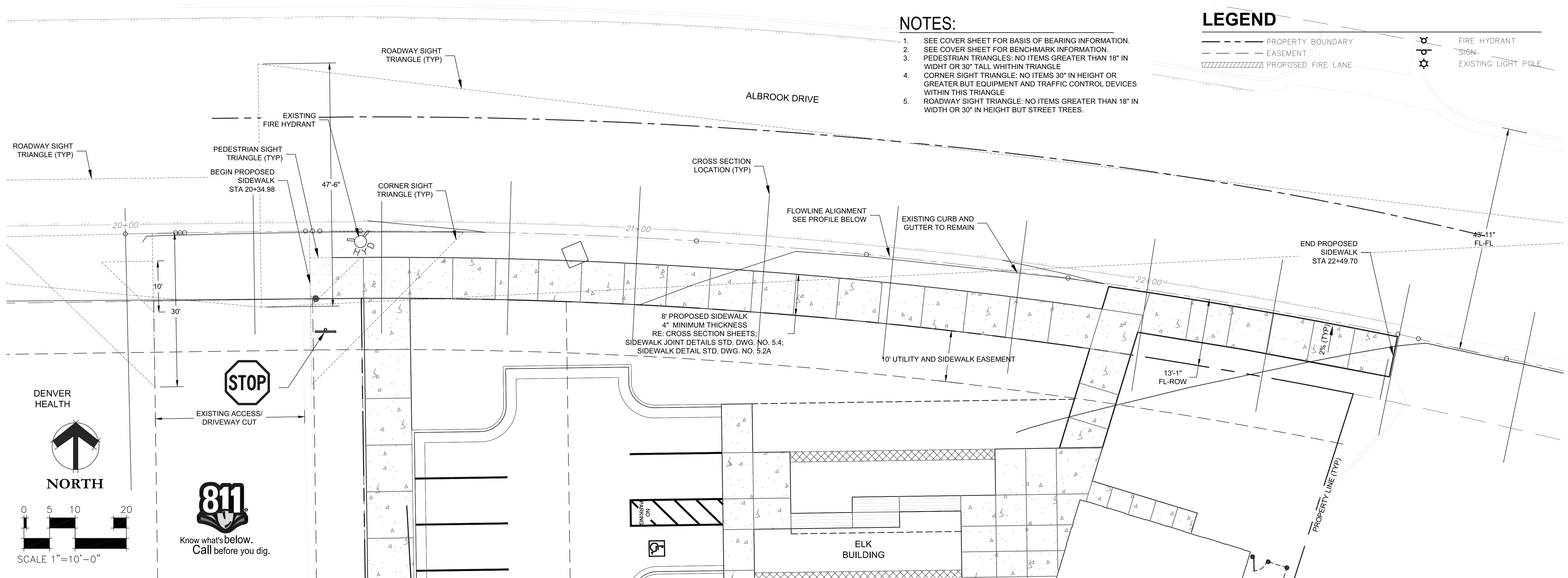


ENVIRONMENTAL LEARNING FOR KIDS
CITY AND COUNTY OF DENVER
TRANSPORTATION ENGINEERING PLAN
12680 Albrook Dr Denver, CO 80239

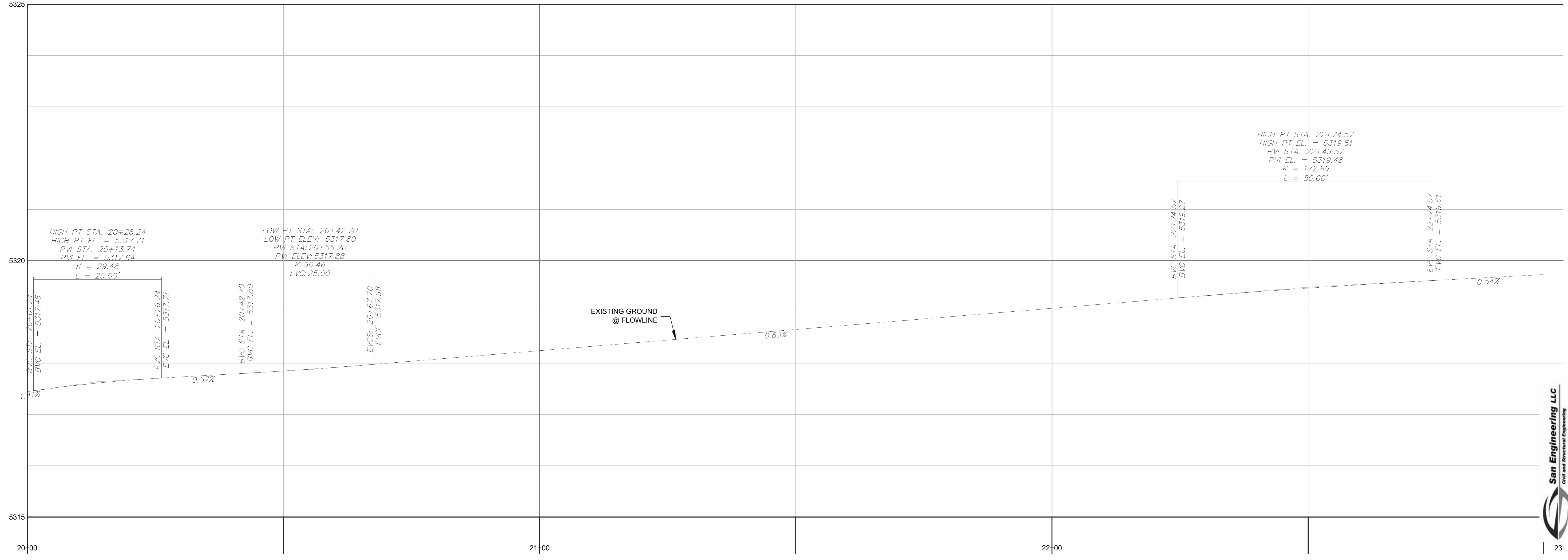
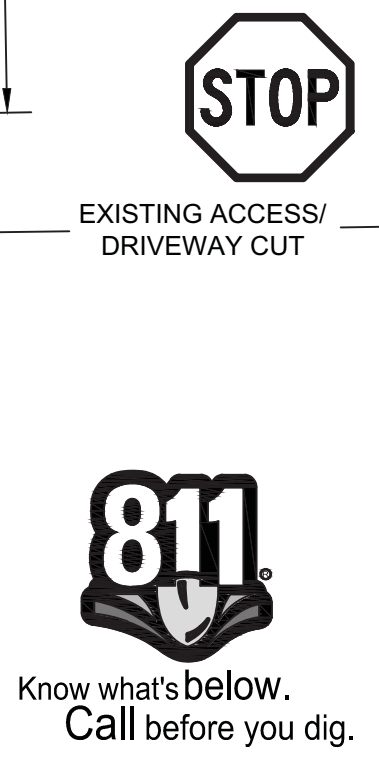
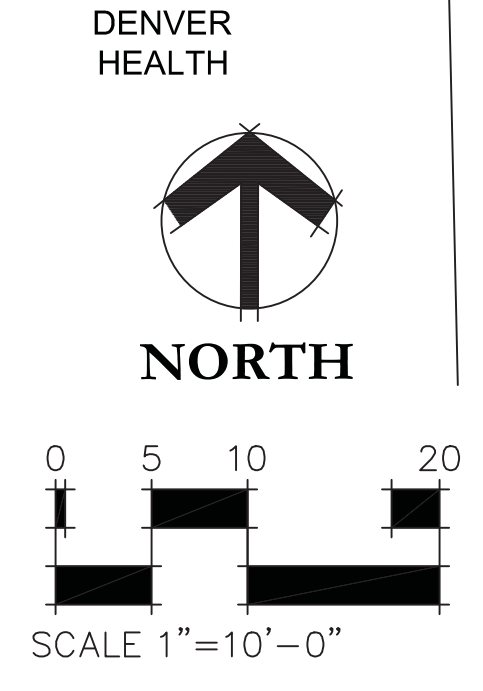
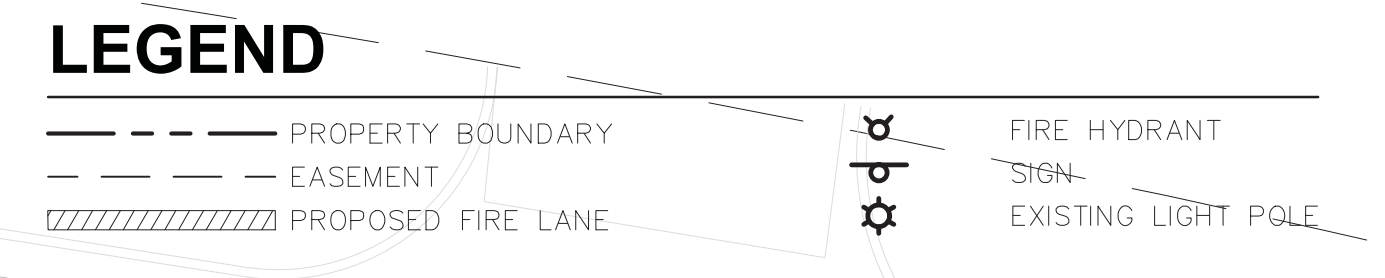
No.	Description	Date

Project Number	2015340
Issue	TRANSPORTATION ENG PLAN
Date	5/06/2016
Drawn by	PL
Checked by	ES
Scale	NA

TITLE SHEET
TEP1

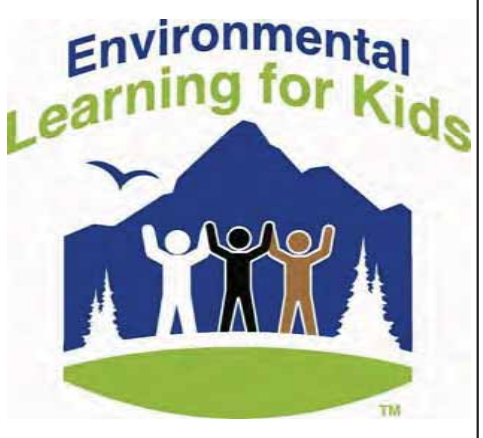


- NOTES:**
1. SEE COVER SHEET FOR BASIS OF BEARING INFORMATION.
 2. SEE COVER SHEET FOR BENCHMARK INFORMATION.
 3. PEDESTRIAN TRIANGLES: NO ITEMS GREATER THAN 18" IN WIDTH OR 30" TALL WITHIN TRIANGLE.
 4. CORNER SIGHT TRIANGLE: NO ITEMS 30" IN HEIGHT OR GREATER BUT EQUIPMENT AND TRAFFIC CONTROL DEVICES WITHIN THIS TRIANGLE.
 5. ROADWAY SIGHT TRIANGLE: NO ITEMS GREATER THAN 18" IN WIDTH OR 30" IN HEIGHT BUT STREET TREES.



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ENVIRONMENTAL LEARNING FOR KIDS
 CITY AND COUNTY OF DENVER
 TRANSPORTATION ENGINEERING PLAN

12680 Albrook Dr Denver, CO 80239

No.	Description	Date

Project Number 2015340
 Issue TRANSPORTATION ENG PLAN
 Date 5/06/2016
 Drawn by PL
 Checked by ES
 Scale 1"=10'-0"

PLAN AND PROFILE

PP1



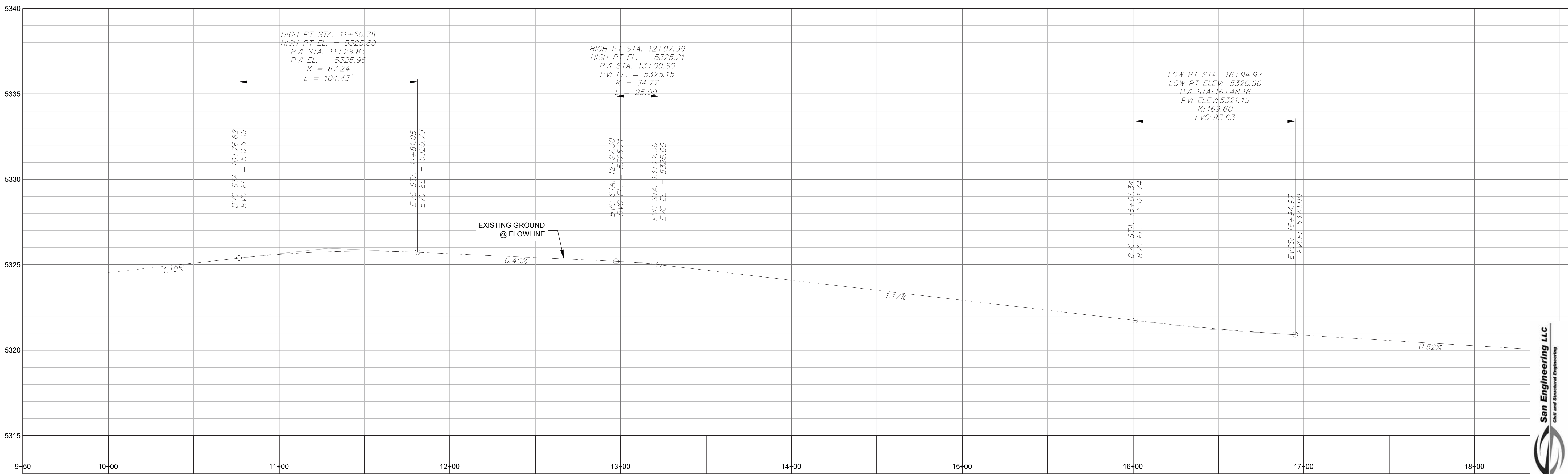
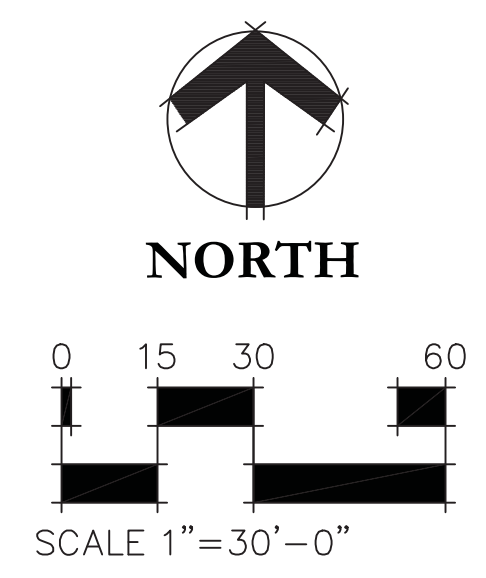
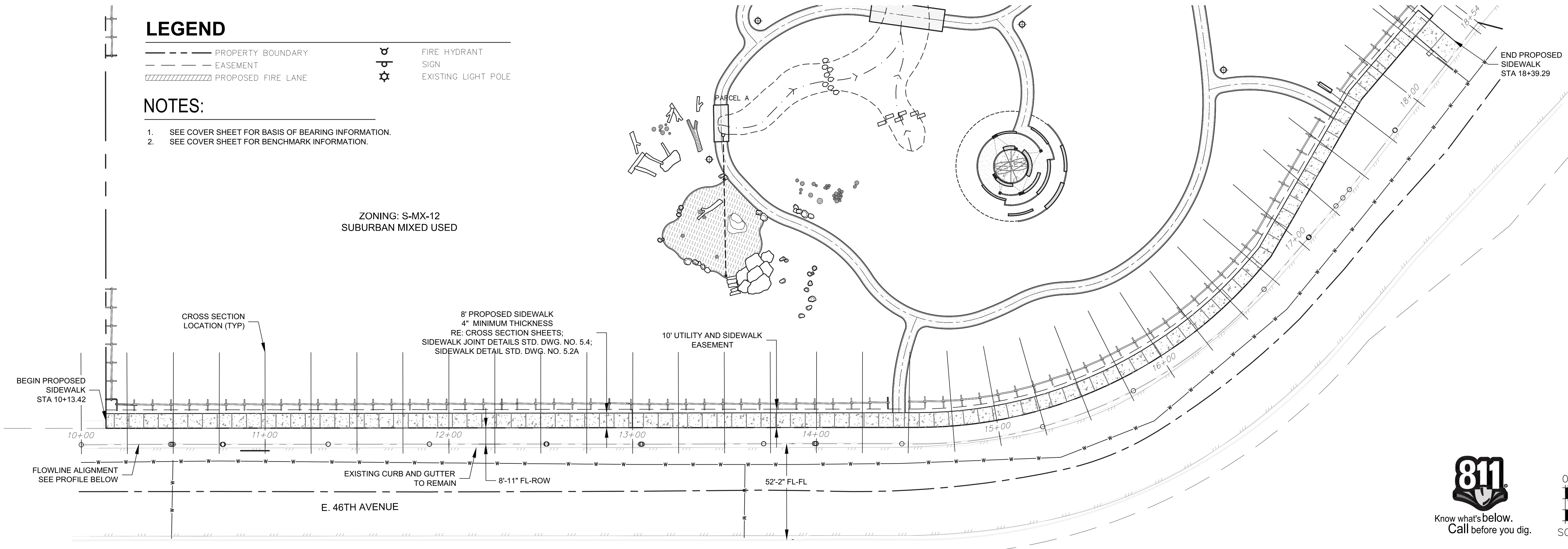
LEGEND

- PROPERTY BOUNDARY
- - - EASEMENT
- ▨ PROPOSED FIRE LANE
- ⊕ FIRE HYDRANT
- ⊙ SIGN
- ⊙ EXISTING LIGHT POLE

NOTES:

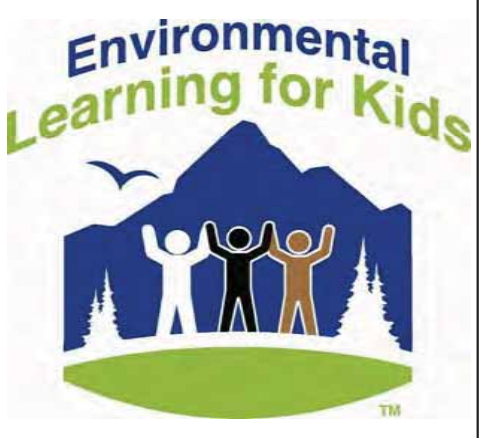
1. SEE COVER SHEET FOR BASIS OF BEARING INFORMATION.
2. SEE COVER SHEET FOR BENCHMARK INFORMATION.

ZONING: S-MX-12
SUBURBAN MIXED USED



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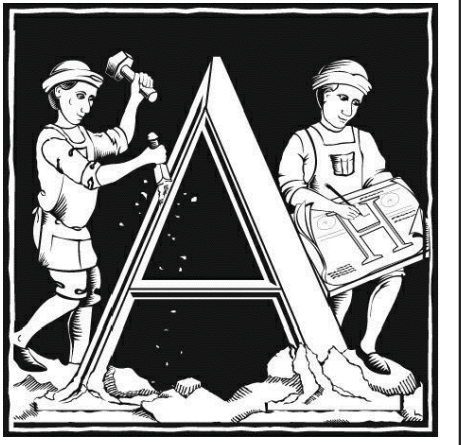
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Issue: TRANSPORTATION ENG PLAN
Date: 5/06/2016
Drawn by: PL
Checked by: ES
Scale: 1"=30'-0"

PLAN AND PROFILE

PP2





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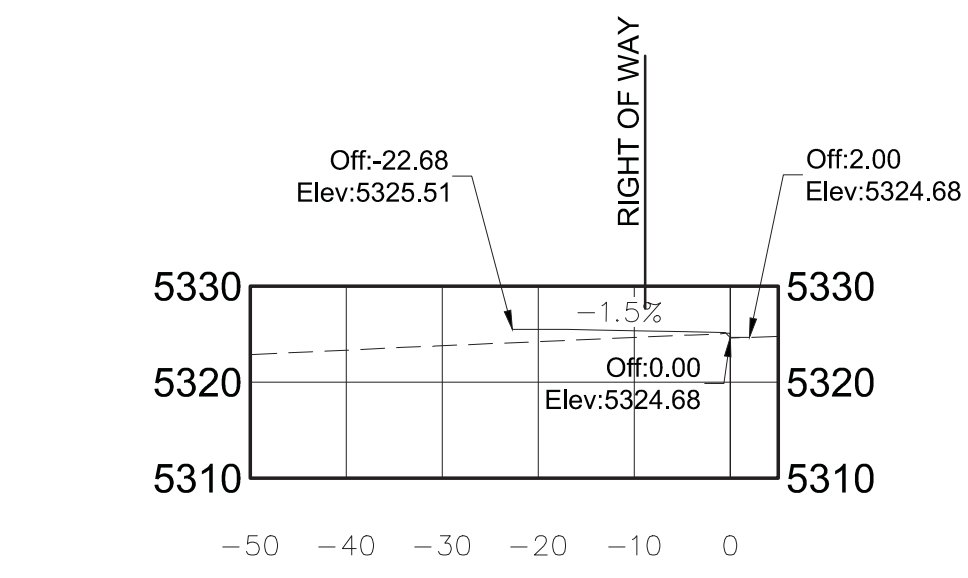
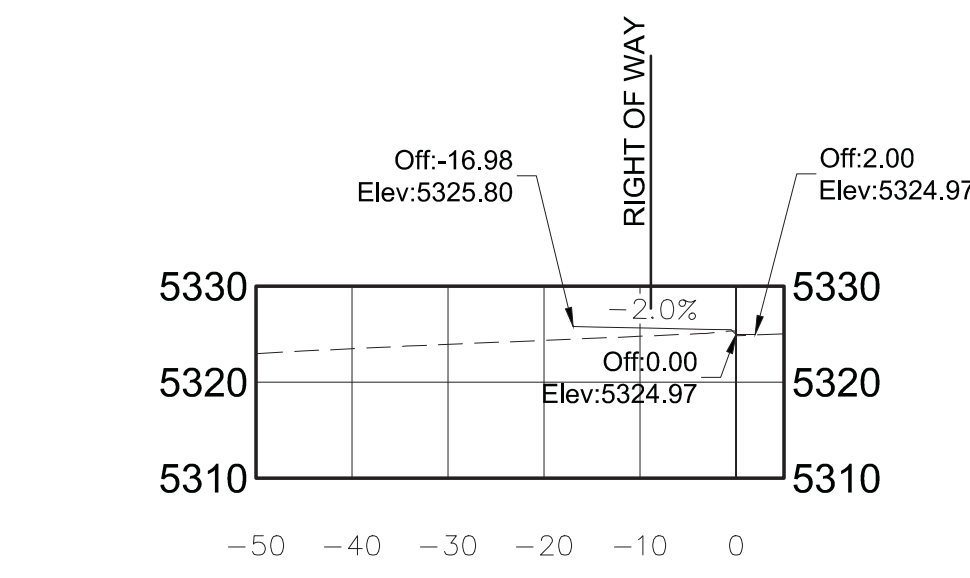
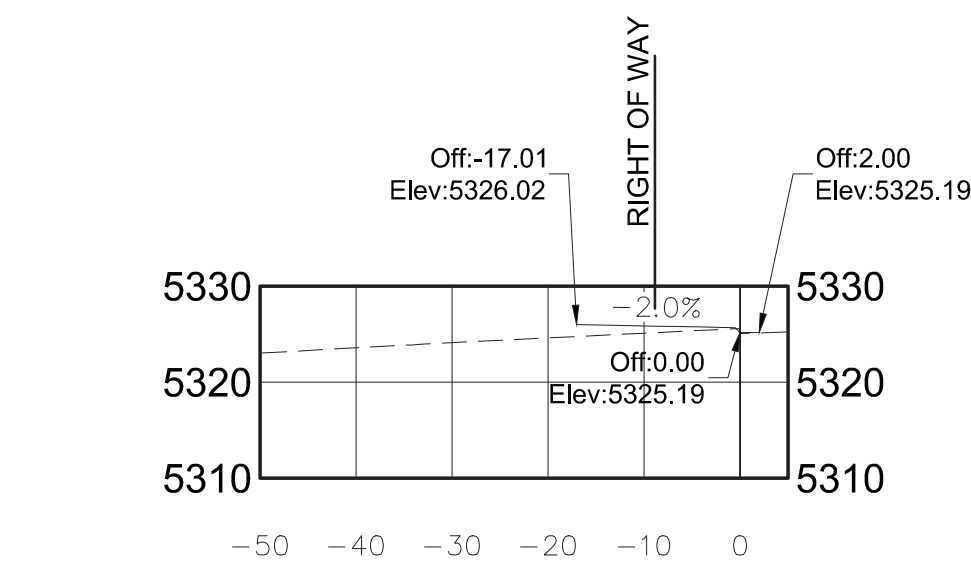
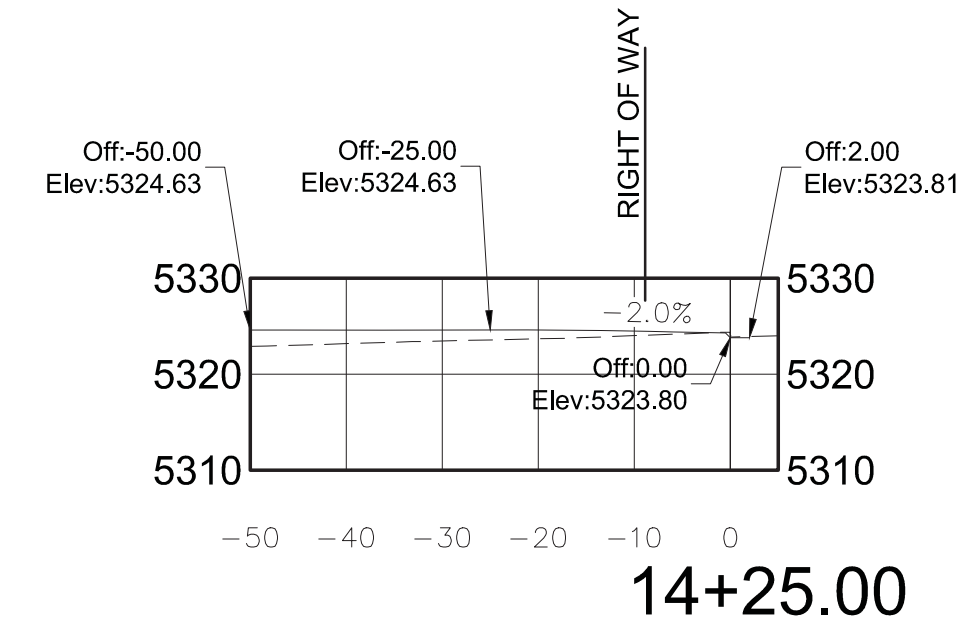
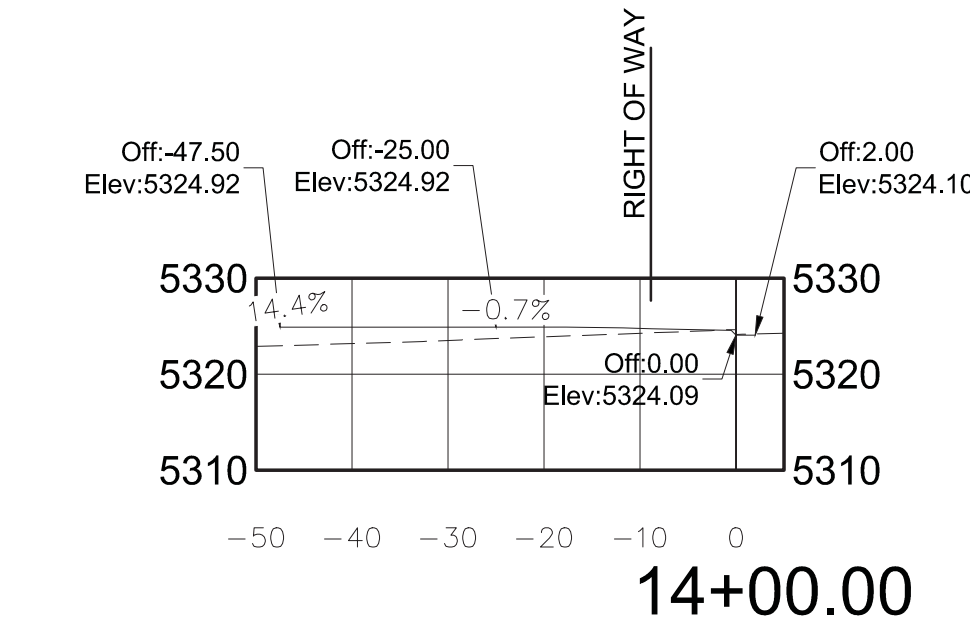
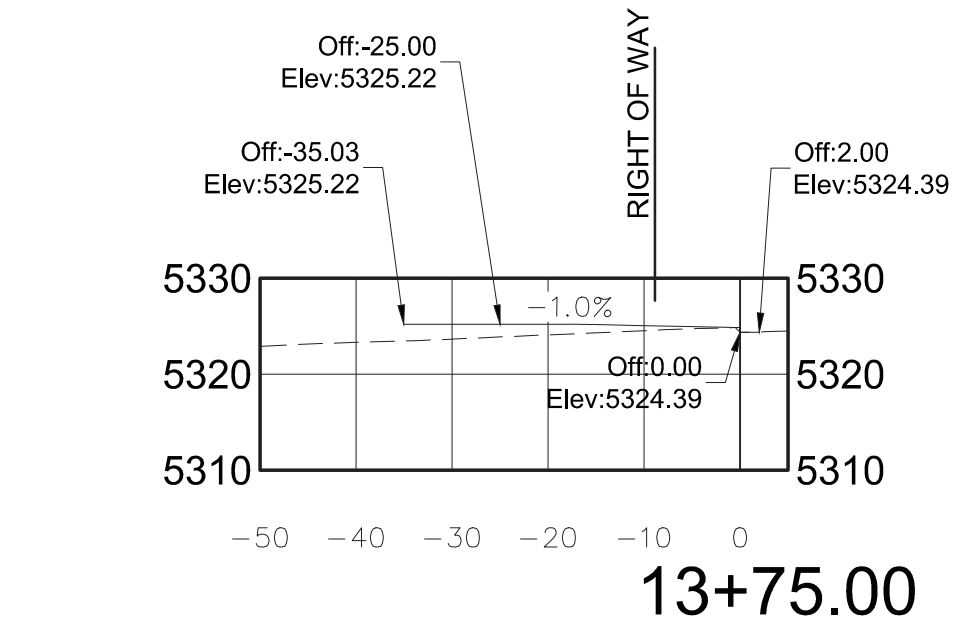
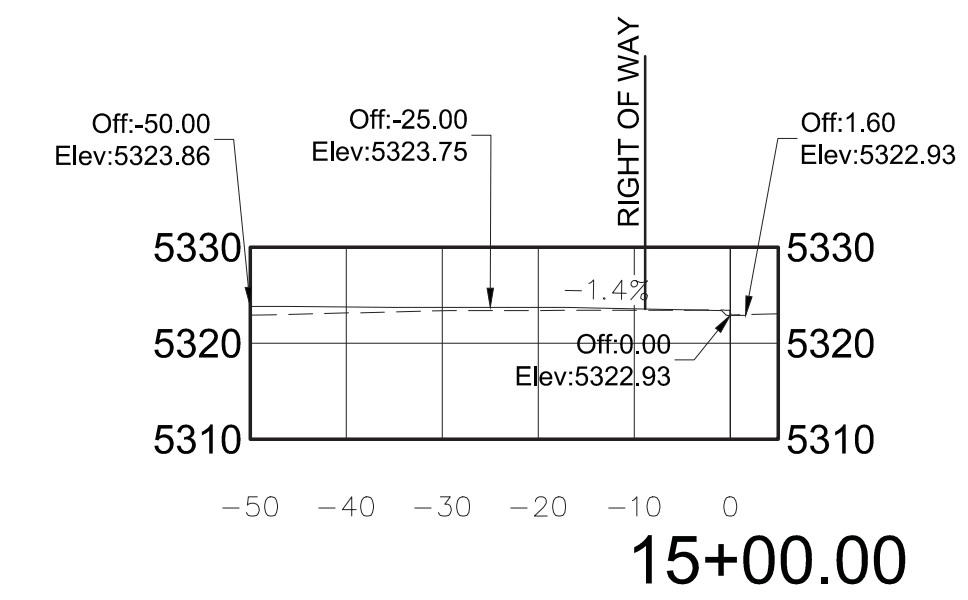
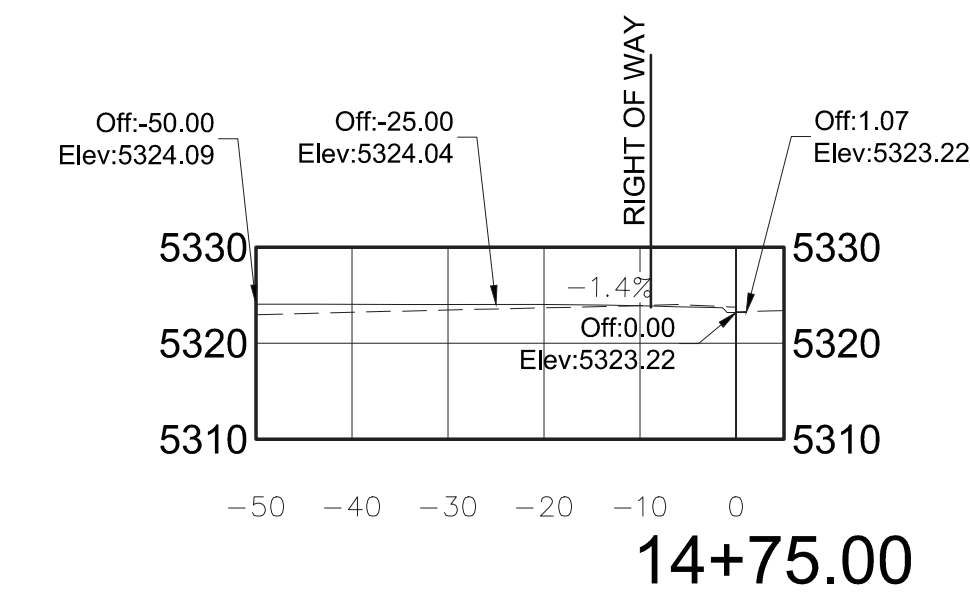
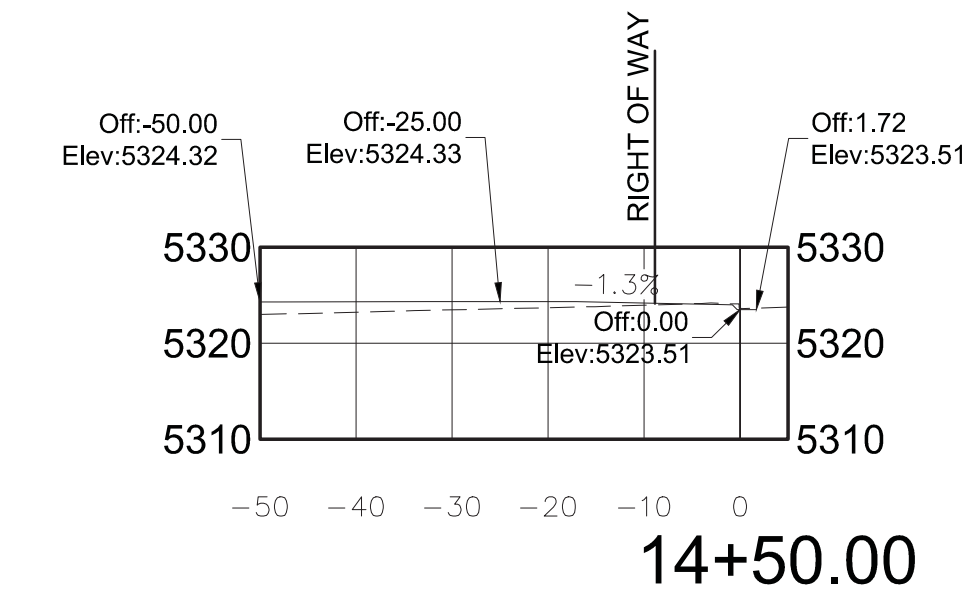
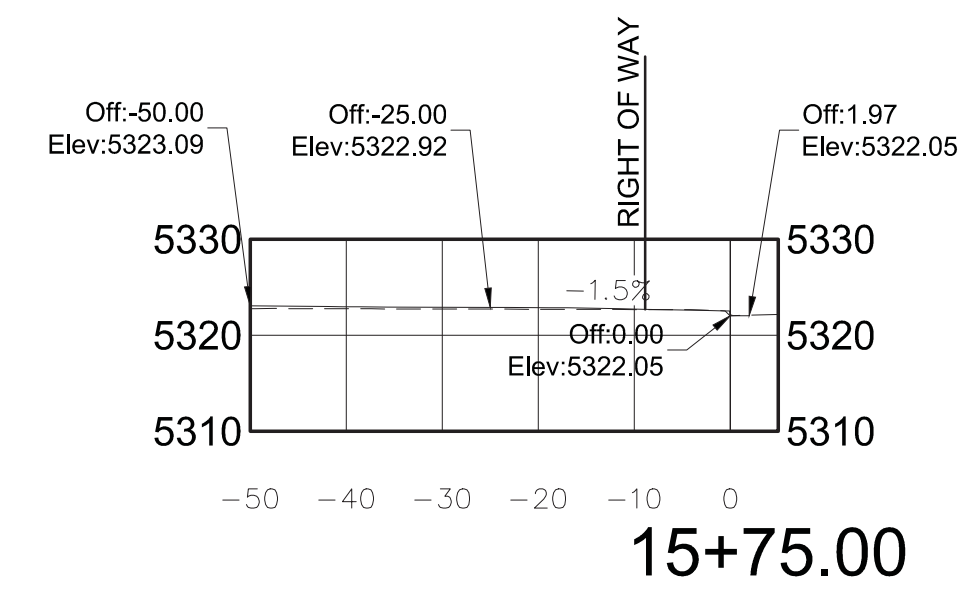
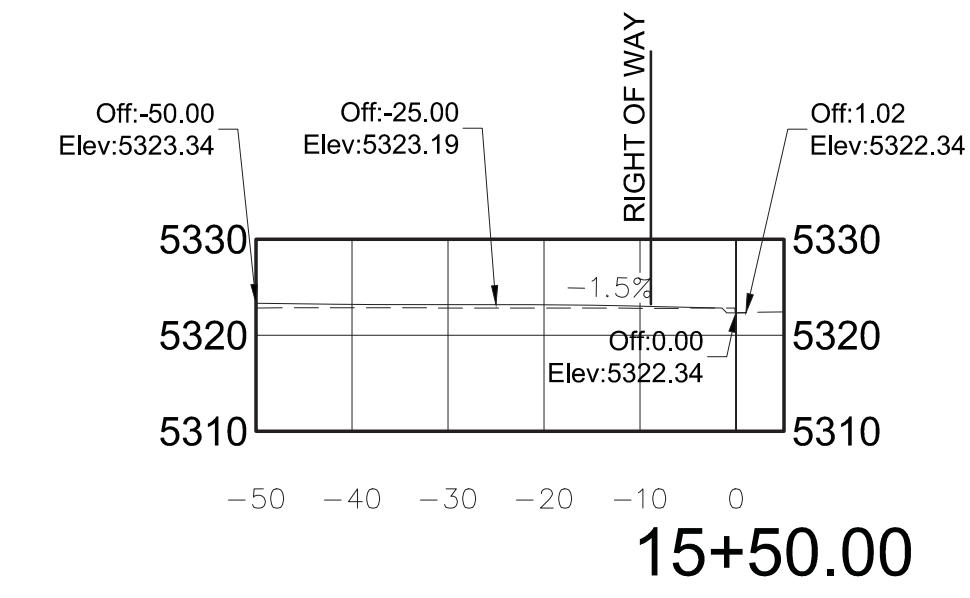
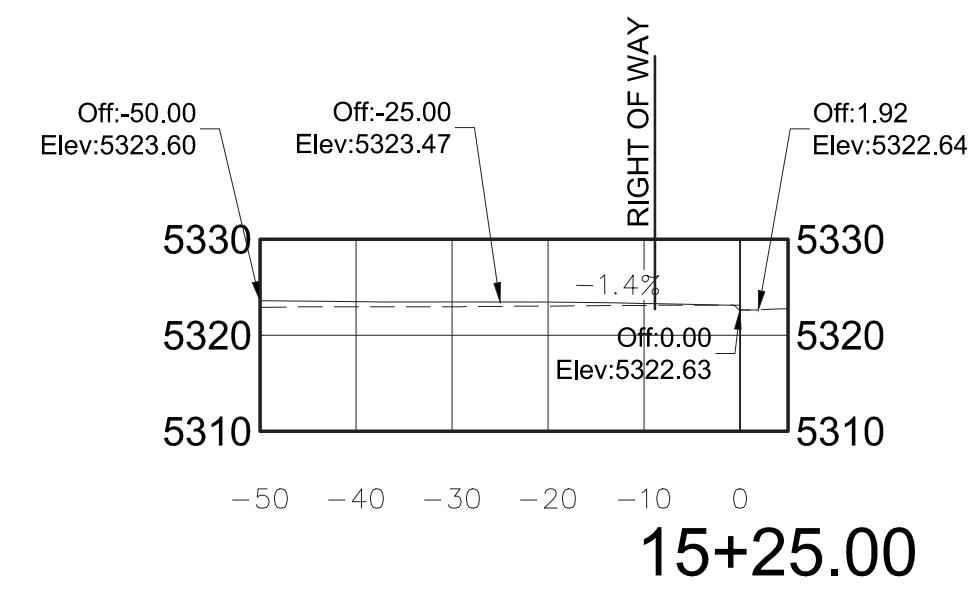
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ENVIRONMENTAL LEARNING FOR KIDS
CITY AND COUNTY OF DENVER
TRANSPORTATION ENGINEERING PLAN

12680 Albrook Dr Denver, CO 80239



No.	Description	Date

Project Number 2015340
Issue TRANSPORTATION ENG PLAN
Date 5/06/2016
Drawn by PL
Checked by ES
Scale 1"=20'-0"

CROSS
SECTIONS

XS2



GRANT AGREEMENT

Project Name: GoWILD Northeast Metro
Project Completion Date: June 30, 2020
Great Outdoors Colorado
Contract No.: 17884 - 2

PARTIES TO AGREEMENT

Board/GOCO: The State Board of the Great Outdoors Colorado Trust Fund
Address: 1900 Grant St., Suite 725
Denver, CO 80203

Telephone: (303) 226-4524
Contact name: Jackie Miller

Grantee: City and County of Denver
Denver Parks and Recreation
Address: 201 West Colfax Ave., Dept 601, Denver CO 80202

Primary Contact: Dody Erickson

Date: February 14, 2017

EXHIBITS

Exhibit A Grantee Resolution
Exhibit B Approved Budget
Exhibit C Governing Agreements between Grantee and Third Party Beneficiaries

RECITALS

A. The State Board of the Great Outdoors Colorado Trust Fund (“GOCO” or the “Board”) is a political subdivision of the State of Colorado, created by Article XXVII of the Colorado Constitution, adopted at the November 1992 General Election, which article appropriates a portion of the net proceeds of the Colorado Lottery to GOCO and directs GOCO to invest those proceeds in the state’s parks, wildlife, open space and recreational resources.

B. In 2015, GOCO created a statewide grant program, pursuant to which eligible entities could apply for grants to connect communities to the outdoors. Grantee listed above (“Grantee”) submitted a detailed project application (“Project Application”) that contemplates building parks and trails and executing outdoor programs for youth and families. GOCO approved Grantee’s Project Application, which is incorporated into this Agreement by reference,

on December 8, 2016, subject to the execution of a detailed grant agreement. GOCO and Grantee each have on file a copy of the Project Application. The project described in the Project Application is referred to as the “Project.”

C. Grantee shall obtain the matching cash and in-kind contributions for the Project as described in the Project Application and as required by GOCO policy.

D. The parties intend this agreement to be the detailed grant agreement required by GOCO (“Agreement”).

AGREEMENT

SECTION 1 – PROJECT SCOPE

NOW, THEREFORE, in consideration of the premises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into this Agreement.

2. Grant and Project. GOCO awards to the GOWILD Northeast Metro coalition a grant in the amount not to exceed \$2,700,000.00 (“Grant”), subject to the terms and conditions set forth in this Agreement. The City and County of Denver will administer up to \$644,082 of the grant.

The Grant shall be used by Grantee solely to complete the Project as approved by GOCO. In the event of a conflict between the Project Application, the parties shall resolve the conflict by mutual agreement. Grantee has provided GOCO with a resolution adopted by Grantee’s governing body authorizing Grantee’s acceptance of the Grant, subject to this Agreement, and designating an appropriate official to sign this Agreement on Grantee’s behalf. The resolution is attached as Exhibit A. Grantee agrees to use its best efforts to complete the Project.

3. Project Scope. Grantee will not materially modify the Project without the written approval of the Executive Director of GOCO (“Executive Director”). Any material change to the Project, whether or not such change is approved in writing by GOCO, may result in a reduction of GOCO’s Grant or may require a refund to GOCO from Grantee, pursuant to Paragraph 9 of this Agreement. In addition, any material change to the Project that is not approved in writing by GOCO may result in termination of the Grant.

4. Approved Budget. Grantee has completed a detailed budget that reflects all anticipated sources and uses of funds for the Project, including a detailed accounting of Grantee’s anticipated direct costs associated with the Project, a copy of which is attached and incorporated as Exhibit B (“Budget”). The Project Application contains a budget that may not match the approved version attached as Exhibit B and which, therefore, shall not be relied upon by GOCO

or Grantee. Where discrepancies exist, the approved Budget in Exhibit B shall control until such time as GOCO approves the final version.

5. Waiver. Prior to the disbursement of funds, the Executive Director in his or her discretion may waive certain conditions set forth in this Agreement. Anything else to the contrary notwithstanding, the exercise by GOCO staff (“Staff”), the Executive Director or GOCO of any right or discretion reserved to them under this Agreement shall not be deemed a waiver. Furthermore, no waiver by them under this Agreement shall constitute a waiver of any other requirements, actions or conditions, nor shall any waiver granted be deemed a continuing waiver. No waiver by the Staff, the Executive Director or GOCO shall be effective unless in writing executed by them. Additionally, any failure by the Staff, the Executive Director or GOCO to take any actions as set forth in this Agreement shall have no legal effect on the contractual duties of the Grantee. Further, no waiver with respect to this Project, Grant, or Agreement shall constitute a waiver in any other GOCO-funded project.

6. Future Funding. This Agreement and the Grant only apply to the Project specifically described in this Agreement. GOCO makes no representations regarding future funding for future phases of the Project, whether or not described in the Project Application or otherwise.

SECTION 2 – GRANT PAYMENT

7. Payment of Grant. Payment of the Grant is subject to GOCO’s determination in its sole discretion that it has received and has available sufficient net lottery proceeds to fund the Grant and that Grantee has complied with this Agreement, including Grantee’s fulfillment of all conditions precedent to funding as set forth in Section 3. In determining the sufficiency of net lottery proceeds, GOCO may consider all facts and circumstances as it deems necessary or desirable, including but not limited to adequate reserves, funding requirements and/or commitments for other past, current and future grants, and past, current and future GOCO operating expenses and budgetary needs.

8. Payment Options. A grantee is required to supply documentation of committed funds and project expenditures prior to requesting payment from GOCO. GOCO offers three payment options for capital construction grants:

A. *Advanced and Final Payment*. The Grantee may request one advance payment prior to beginning work on a project. The Grantee may request up to 50% of the grant amount or up to 75% of the funds committed to date, whichever is less. Funds to be paid in advance must be committed via executed contracts, purchase orders, or other documentation. The remainder is payable upon grantee’s submission and GOCO’s approval of a final report.

B. *Progress and Final Payment*. The Grantee may request one progress payment once work has started on a project yet prior to project completion. The Grantee may request up to 50% of the grant amount or up to 75% of funds expended to date, whichever is less. The remainder is payable upon grantee’s submission and GOCO’s approval of a final report.

C. *Final Payment.* The Grantee may request one final payment of the entire grant amount for actual expenditures made, upon GOCO's approval of a final report.

In addition to the three payment options above, GOCO offers a fourth payment option for youth programming and capacity components.

D. *Advanced Payment.* The Grantee may request one advanced payment prior to beginning work on the project. The Grantee may request 100% of the grant amount for that project. Funds to be paid in advanced must be committed via executed contracts or other documentation.

Annually, GOCO may conduct a review on a sampling basis of any billing statements, supporting documentation, or other materials relating to the receipt and use of GOCO Funds by Grantee or third party beneficiaries. The Grantee agrees to provide GOCO materials requested as part of any such review. GOCO shall provide the parties written notification if such review indicates deficiencies, errors, or other issues with money previously advanced. The parties agree to confer in good faith within thirty (30) days of receipt of any notifications to achieve a resolution, as appropriate.

9. Payment Schedule. Grant payments will follow the Grantee's 3 ½ year implementation schedule. Upon execution of this Agreement, the Grantee is authorized to request payments for the first year of implementation. The Grantee must expend or be under contract for at least 50% of the first year's budget to request payments for the second year of implementation. Likewise, the Grantee must expend or be under contract for at least 50% of the second year's budget to request payments for the third year of implementation. Each year, the Grantee and its partners will go before the Board to present on progress to date and scope of work for the following year. The Board, at its discretion, will authorize release of the following year's grant funding. Funding for capital improvement projects will be requested once during the year in which construction is to be started.

10. Withdrawal of GOCO Funding; Termination of Agreement. Anything in this Agreement to the contrary notwithstanding, with prior notice to Grantee, GOCO reserves the right to withhold or withdraw all or a portion of the Grant, to require a full or partial refund of the Grant, and/or to terminate this Agreement if GOCO determines in its sole discretion that:

A. *Altered Expectations.* Facts have arisen or situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Project or the Grant as approved by GOCO infeasible or impractical;

B. *Material Project Changes.* Material changes in the scope or nature of the Project have occurred from how the Project was presented in the Project Application, approved by GOCO without prior written approval of the Executive Director;

C. *Inaccuracies.* Any statement or representation made or information provided by the Grantee in the Project Application or this Agreement is untrue, inaccurate or incomplete in any material respect; or

D. *Conditions Precedent Not Fulfilled or Unsatisfactory.* Any of the conditions precedent to funding listed in Section 3 below is not fulfilled by Grantee or is unsatisfactory to GOCO, in its sole discretion.

SECTION 3 – CONDITIONS PRECEDENT

11. Completion Date. Grantee shall complete the Project no later than June 30, 2020. Grantee may request an extension of the Completion Date in compliance with GOCO's Overdue Grants Policy, as may be amended from time to time by GOCO in its sole discretion. GOCO may elect to terminate this Agreement and deauthorize the Grant in the event this Completion Date is not met and/or Grantee fails to comply with the Overdue Grants Policy.

12. Grantee's Inability to Complete Project. If Grantee determines with reasonable probability that the Project will not or cannot be completed as approved by GOCO, Grantee will promptly advise GOCO in writing.

13. Third Party Beneficiaries. The Grantee is responsible for contracting with all third-party beneficiaries of the Grant to bind those beneficiaries to the terms and obligations set forth in this Agreement. All contracts are to be attached as Exhibit C. This Agreement will be amended to include contracts as they are executed. In the absence of all executed contracts at the time of Agreement execution, the Grantee may include a list of third party beneficiaries. Grant funding to benefit third party beneficiaries cannot be requested and will not be released in the absence of a contract between the Grantee and the third-party beneficiary.

14. Property ownership. The Grantee must own or control (through a contract such as a lease) the property on which any park, trail, and/or outdoor education facility is to be constructed for the useful life of the project. If the property is owned by a third party that is not eligible under Article XXVII, Section 5(1)(a)(IV) of the Colorado Constitution (e.g., a school district), a use agreement, intergovernmental agreement, or other contract between the eligible applicant and the property owner must be in effect upon execution of the grant agreement.

15. Matching Funds. Matching funds in the minimum amount set forth in the Project Application must have been received by Grantee, or the status of efforts to secure matching funding was disclosed and has been deemed satisfactory by Staff.

16. Public Access. Grantee and its partners agree, for themselves and their successors in interest, to allow reasonable public access to funded parks, trails and outdoor education facilities. Grantee and its partners may temporarily close such public access for construction, maintenance, emergency situations, or other reasonable purposes.

17. Operation and Maintenance. Subject to annual appropriations, Grantee and its partners shall operate, manage, and maintain funded parks, trails and outdoor education facilities in a reasonable state of repair for the purposes specified and for their useful life in accordance with product warranties and/or the generally accepted standards in the parks/recreation community,

and provide and maintain access to the Project and to the Property, regardless of the Property's ownership. GOCO shall not be liable for any cost of maintenance, management or operation of the Project.

SECTION 4 – OTHER PROVISIONS

18. Publicity and Project Information. GOCO has the right and must be provided the opportunity to use information gained from the Project; therefore, Grantee shall acknowledge GOCO funding in all news releases and other publicity issued by Grantee concerning the Project. If any events are planned in relationship to the Project, GOCO shall be acknowledged as a contributor in the invitation for the event. GOCO shall be notified of any such events 30 days in advance. Grantee shall give timely notice of the Project, its inauguration, significance, and completion to the local members of the Colorado General Assembly, members of the board of county commissioners of the county or counties in which the Project is located, as well as to other appropriate public officials. Grantee shall cooperate with GOCO in preparing public information pieces, providing slides and photos of the Project (collectively, "Project Materials") from time to time, and providing access to the Project for publicity purposes. For the avoidance of doubt, all Project Materials generated by Grantee of the Project constitute a "work made for hire" pursuant to the U.S. copyright law (17 U.S.C. Section 201(b)). Grantee agrees that all copyrights and other property rights in the Project Materials developed by Grantee in conjunction with the Project are further owned by GOCO. Grantee forever and irrevocably assigns to GOCO, without further consideration, all right, title and interest in such copyrights and other proprietary rights. Grantee agrees that GOCO, its successors and assigns shall have the exclusive right to file copyright applications in the United States and throughout the world to the Project Materials or any portion of them in the name of GOCO. Grantee agrees that GOCO, its successors and assigns may act as attorney-in-fact to execute any documents that GOCO deems necessary to record this Agreement with the United States Copyright Office or elsewhere. Grantee agrees to execute any and all documents reasonably requested by GOCO to enforce GOCO's rights under this provision.

19. Signage. Grantee shall erect one or more signs in prominent locations in funded parks, trails and outdoor education centers acknowledging the assistance of Great Outdoors Colorado and the Colorado Lottery. GOCO will provide such signs at no cost to the Grantee. The number and placement of the signs, as well as any requests for different design or wording, shall be submitted to GOCO for review and written approval prior to their placement. For approved custom signs, GOCO will provide reproducible samples of its logo to the Grantee for such signs and requires they be incorporated into the signs. The Board may withhold final grant payment pending evidence of placement of permanent signage.

20. Liability.

A. Indemnity. To the extent allowed by law, including any constitutional or statutory limitations on the ability of a governmental entity to provide indemnification, Grantee shall be responsible for and shall indemnify, defend and hold harmless GOCO, its officers, agents and employees from any and all liabilities, claims, demands, damages or costs (including reasonable attorneys' fees) resulting from, growing out of, or in any way connected with or incident to Grantee's performance of this Agreement. Grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State of Colorado, GOCO, its

members, officers, agents or employees for any liability resulting from, growing out of, or in any way connected with or incident to this Agreement. GOCO and Grantee acknowledge and agree that both parties are public entities and are not obligated to indemnify the other.

B. *No CGIA Waiver.* No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protections provided to GOCO under the Colorado Governmental Immunity Act as amended or as may be amended in the future (including without limitation any amendments to such statute, or under any similar statute that is subsequently enacted) (“CGIA”). This provision may apply to the Grantee if the Grantee qualifies for protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. GOCO and Grantee understand and agree that liability for claims for injuries to persons or property arising out of the negligence of GOCO, its members, officials, agents and employees may be controlled and/or limited by the provisions of the CGIA. The parties agree that no provision of this Agreement shall be construed in such a manner as to reduce the extent to which the CGIA limits the liability of GOCO, its members, officers, agents and employees.

C. *Compliance with Regulatory Requirements and Federal and State Mandates.* Grantee assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, and other similar requirements. To the maximum extent permitted by law, Grantee agrees to indemnify, defend and hold harmless GOCO, Executive Director and Staff from any cost, expense or liability for any failure to comply with any such applicable requirements.

D. *Nondiscrimination.* During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, and shall comply with any other applicable laws prohibiting discrimination. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination.

21. Audits and Accounting Records. Grantee shall maintain standard financial accounts, documents, and records relating to the acquisition, use, management, operation and maintenance of the Project. Grantee shall retain the accounts, documents, and records related to the Project for five years following the date of disbursement by GOCO of the Grant funds, and they shall be subject to examination and audit by GOCO or its designated agent during this period. All accounts, documents, and records described in this paragraph shall be kept in accordance with generally accepted accounting principles.

22. Breach. In addition to other remedies available at law or in equity, in the event that Grantee breaches any of the terms or conditions of this Agreement, GOCO shall have the following non-exclusive remedies:

A. *Prior to Payment of Grant.* GOCO reserves the right to withdraw funding and/or terminate this Agreement.

B. *After Payment of Grant.* GOCO reserves the right to seek equitable relief and/or all other remedies as available to it under applicable law, including but not limited to return of all or a portion of the Grant. Further, GOCO reserves the right to deem Grantee ineligible for participation in future GOCO grants, loans or projects.

23. GOCO Policies. With regard to all named GOCO policies referenced in this Agreement, Grantee acknowledges it has received a copy of the policies or otherwise has access to the documents in connection with this Agreement and is familiar with their requirements.

24. Miscellaneous Provisions.

A. *Good Faith.* Both parties have an obligation of good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.

B. *Assignment.* Grantee may not assign its rights or delegate its obligations under this Agreement without the express written consent of the Executive Director, who has the sole discretion to withhold consent to assign.

C. *Applicable Law.* Colorado law applies to the interpretation and enforcement of this Agreement.

D. *Status of Grantee.* The parties acknowledge that GOCO lacks the power and right to direct the actions of Grantee. Grantee acts in its separate capacity and not as an officer, employee or agent of GOCO or the State of Colorado.

E. *Time is of the Essence.* Time is of the essence in this Agreement.

F. *Survival.* The terms and conditions of this Agreement, including but not limited to Grantee's obligations, shall survive the funding of the Grant and the Project.

G. *Fax and Counterparts, Electronic Signatures and Records.* This Agreement may be executed in one or more counterparts, all of which when taken together shall constitute one agreement. The parties consent to the use of electronic signatures. The Agreement may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

H. *Notice.* Any notice, demand, request, consent, approval or communication that either party desires or is required to give the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the addresses shown on

Page 1 of this Agreement.

I. *Construction; Severability.* Each party has reviewed and revised (or requested revisions of) this Agreement, and therefore any rules of construction requiring that ambiguities be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement. If any provision in this Agreement is found to be ambiguous, an interpretation consistent with the purpose of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid. If any provision of this Agreement is declared void or unenforceable, it shall be deemed severed from this Agreement, and the balance of this Agreement shall otherwise remain in full force and effect.

J. *Entire Agreement.* Except as expressly provided, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes in this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

K. *Termination of the Board.* If Article XXVII of the Colorado Constitution, which established GOCO, is amended or repealed to terminate GOCO or merge GOCO into another entity, the rights and obligations of GOCO under this Agreement shall be assigned to and assumed by such other entity as provided by law, but in the absence of such direction, by the Colorado Department of Natural Resources or its successor.

IN WITNESS WHEREOF, the parties execute this Agreement effective as of _____, 2017.

STATE BOARD OF THE GREAT GRANTEE:
OUTDOORS COLORADO TRUST FUND

By: _____
Jim Spaanstra
Executive Director

By: _____
Title

EXHIBIT C

CONTRACTOR'S INSURANCE REQUIREMENTS for CONTRACTOR AGREEMENT:

(1) **General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Contractor Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for at least three (3) years after the expiration or termination of the Contractor Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City and County of Denver, as and where specified by the City, and to ELK (the "Notification Parties") in the event any of the required policies are canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Notification Parties. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Notification Parties by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s). If any policy is in excess of a deductible or self-insured retention, the Notification Parties must be notified by Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Contractor Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of Contractor. Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Contractor Agreement.

(2) **Proof of Insurance:** Contractor shall provide a copy of this Contractor Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Contractor Agreement prior to placement of coverages required under this Contractor Agreement. Contractor certifies that the certificate of insurance, preferably an ACORD certificate, complies with all insurance requirements of this Contractor Agreement. The acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Contractor Agreement shall not act as a waiver of Contractor's breach of this Contractor Agreement or of any of the rights or remedies under this Contractor Agreement. Additional proof of insurance, including but not limited to policies and endorsements, may be required.

(3) **Additional Insureds:** For Commercial General Liability, Auto Liability and Contractors Pollution Liability, Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers and ELK and its officials, officers, employees and volunteers as additional insured.

(4) **Waiver of Subrogation:** For all coverages required under this Contractor Agreement, Contractor's insurer shall waive subrogation rights against the City and County of Denver and ELK

(5) **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Contractor Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors and subconsultants as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request.

(6) **Workers' Compensation/Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City and County of Denver and ELK, as a material representation upon which the City and ELK are relying, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall

effect such rejection during any part of the term of this Contractor Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Contractor Agreement.

(7) Commercial General Liability: Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

(8) Business Automobile Liability: Contractor shall maintain Business Automobile Liability, or its equivalent, with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Contractor Agreement. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under the Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

(9) Contractors Pollution Liability: Contractor shall maintain limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate. Policy to include bodily injury; property damage including loss of use of damaged property; defense costs including costs and expenses incurred in the investigation, defense or settlement of claims; and clean up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City and County of Denver and ELK (Construction Contractor Only)

(10) Professional Liability (Errors & Omissions): Contractor shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. (Design Professionals Only)

(11) Builders' Risk or Installation Floater: Contractor shall maintain limits equal to the completed value of the project. Coverage shall be written on an all risk, replacement cost basis including coverage for soft costs, flood and earth movement, if in a flood or quake zone, and, if applicable, equipment breakdown including testing. The City and County of Denver, ELK, Contractor, and sub-contractors shall be Additional Named Insureds under the policy. Policy shall remain in force until acceptance of the project by the City and County of Denver. (Construction Contractor Only)

(12) Additional Provisions:

- (a) For Commercial General Liability, the policy must provide the following:
 - (i) That this Contractor Agreement is an Insured Contract under the policy;
 - (ii) Defense costs are outside the limits of liability;
 - (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
 - (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City and County of Denver or ELK
- (b) For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided, whichever is earlier.
- (c) Contractor shall advise the Notification Parties in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At its own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.