

BOARD OF COUNTY COMMISSIONERS FOR
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION LICENSE AGREEMENT
FROM THE REGIONAL TRANSPORTATION DISTRICT (RTD) TO ADAMS COUNTY
FOR TEMPORARY ACCESS ONTO RTD PROPERTY

Resolution No. 2014-106

WHEREAS, Adams County needs to acquire a temporary construction easement in conjunction with the culvert repairs caused by the September 2013 rains and flooding at the Colorado Boulevard and Big Dry Creek crossing; and,

WHEREAS, the temporary construction easement is located in the Southeast Quarter of Section 1, Township 1 South, Range 68 West of the 6th Principal Meridian; and,

WHEREAS, RTD is willing to grant the temporary construction easement to Adams County under the terms and conditions of the attached Temporary Construction License Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners, County of Adams, State of Colorado, that the attached Temporary Construction License Agreement a copy of which is attached hereto and incorporated herein by this reference, be and hereby is accepted.

BE IT FURTHER RESOLVED by the Board of County Commissioners, County of Adams, State of Colorado, that the Chairman of the Board of County Commissioners is hereby authorized to execute said Temporary Construction License Agreement on behalf of Adams County.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry _____ Aye
Tedesco _____ Aye
Hansen _____ Aye

Commissioners

STATE OF COLORADO)
County of Adams)

I, Karen Long, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 24th day of February, A.D. 2014.

County Clerk and ex-officio Clerk of the Board of County Commissioners
Karen Long:



By:



Deputy

**TEMPORARY CONSTRUCTION LICENSE
(RTD Licensor to Governmental Entity)**

This **TEMPORARY CONSTRUCTION LICENSE** (this "License") is made this 26th day of March, 2014 (the "Effective Date"), by and between the Regional Transportation District, a political subdivision of the State of Colorado ("RTD") and Adams County, Colorado _____, a body corporate and politic and a political subdivision of the State of Colorado _____ ("Licensee"), with a mailing address of 4430 So. Adams County Parkway, Brighton, CO 80601 _____ (individually a "Party" and collectively, the "Parties").

Subject to and in accordance with the terms, covenants and conditions contained in this License, and in consideration of the mutual agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. LICENSED AREA. RTD owns or controls a parcel of land in the Southeast Quarter of Section 1, Township 1 South, Range 68 West of the 6th Principal Meridian, Adams _____ County, Colorado, (the "Property") and Licensee desires to use a portion of the Property (the "Licensed Area") for the purposes indicated herein. The Property and the Licensed Area are indicated on Exhibit A attached hereto and incorporated herein by this reference.

II. GRANT. RTD hereby grants a revocable, nonexclusive, nontransferable, temporary license to Licensee, its contractors and subcontractors to use the Licensed Area subject to and in accordance with the terms, covenants and conditions of this License. RTD shall retain all other rights in and usage of the Licensed Area not inconsistent with the reasonable enjoyment of the foregoing grant.

III. TERM. The term of this License shall commence on the Effective Date and expire on February 28th _____, 2014_____, unless sooner terminated (the "Term").

IV. IMPROVEMENTS. RTD hereby grants permission to Licensee, its contractors and subcontractors, to use the Licensed Area, on a temporary basis for the Term of this License, to construct erosion control embankment slope grading _____ (the "Improvement(s)"). Licensee shall be solely responsible for all costs related to construction of the Improvement(s) and to conduct its activities upon the Licensed Area, such obligation to survive expiration or earlier termination of this License. Installation of the Improvement(s) shall not interfere with existing utilities or other facilities installed on or adjacent to the Property, and Licensee shall be responsible for locating and protecting such utilities or other facilities, at Licensee's sole cost and expense. All of the limitations and obligations imposed upon the Licensee pursuant to this License and all rights reserved to RTD hereunder shall apply with equal force and effect to any contractors and subcontractors performing any activities on behalf of Licensee on the Property. Licensee agrees to maintain the Licensed Area in a clean, neat and sanitary condition, and to properly and promptly dispose of all litter and debris.

V. PERMITS. Procurement of any and all applicable licenses, permits (including without limitation, regulatory permission or consent) is the sole responsibility of Licensee. If Licensee or its equipment will be present inside a restricted, fenced area or within fifteen feet (15') of either

the outside rail of the nearest RTD rail track or the overhead contact system, Licensee shall obtain a Right of Way Access Permit from RTD. Right of Way Access Request/Permit applications are available at <http://www.rtd-denver.com/Reports.shtml> under "Rail Operations Access Permit". If Licensee's work is outside of RTD's right of way envelope, Licensee shall obtain a Buildings and Grounds Access Permit ("BGAP") from RTD, which can be found at <http://www.rtd-denver.com/PDF Files/rtd-building-grounds-permit-form.pdf>.

VI. ENCUMBRANCES. Licensee shall not suffer or permit anything to be done that will cause the Property or the Licensed Area to become encumbered by any mechanic's lien or similar lien, security interest or other charge or encumbrance of any kind, including without limitation, any lien imposed pursuant to section 107(f) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Section 9607(1) or any similar state statute, charge or claim in connection with the construction of the Improvement(s). If any mechanic's lien or claim is filed against the Property and/or the Licensed Area in connection with the construction of the Improvement(s), Licensee shall discharge the same of record by a release or bond within thirty (30) days after the filing of any notice of such lien, claim or other charge, such obligation to survive expiration or earlier termination of this License,

VII. WARRANTIES. If Licensee's work and/or the Improvement(s) voids or impairs any warranty or warranties in effect on the Licensed Area or the Property, Licensee shall fully assume and perform the obligations of such warranty or warranties, such obligation to survive expiration or earlier termination of this License.

VIII. HAZARDOUS SUBSTANCES. Licensee shall not use, produce, treat, generate, release, discharge, store, transport, or cause to be transported, or dispose of any hazardous substances at, on, under, in, or about the Licensed Area in violation of applicable law. The term "hazardous substances" shall mean any toxic or hazardous or noxious substance, material, or waste which is regulated by any local government authority having jurisdiction over the Licensed Area, the State of Colorado, or the United States government.

IX. INSURANCE.

A. Licensee shall obtain and maintain at its sole cost and expense, and shall require that its contractors and subcontractors procure and maintain, the following types of insurance, at minimum, with an insurer or insurers and in a form satisfactory to RTD:

1. Comprehensive general and automobile liability insurance with contractual liability endorsement and products and completed operations hazards included, which shall provide coverage for limits of not less than \$ 5,000,000.00 bodily injury liability and property damage liability, combined single limits.
2. Workers' Compensation and Employers' Liability Insurance covering all employees of Licensee and its contractors, wherever they may be in the United States of America so long as they are engaged in the work covered by this Agreement. The policy or policies shall cover the entire liability of the Licensee. Its contractors shall provide evidence of their individual workers' compensation and employers liability insurance as determined by the Workers' Compensation laws of the state or states under which such liability arises. Employer's Liability Insurance shall provide coverage for limits of not less than \$ 500,000.

3. Prior to entry upon, above or adjacent to the RTD Property, Licensee and its contractors, individually, agree to furnish RTD with a certificate of insurance for itself. Each of its contractor(s) shall provide their own policy(ies). Licensee shall provide thirty (30) days advance notice of cancellation of the policy by Registered or Certified mail.
4. Each such comprehensive general and automobile liability certificate shall have the following endorsements, if applicable, attached thereto:
 - a) An endorsement naming RTD an additional insured;
 - b) An endorsement providing for contractual liability coverage for liability assumed by the Licensee under this Agreement;
 - c) An endorsement providing that all policy or endorsement limitation(s) relating specifically to operations on or near railroad property are eliminated;
 - d) A Broad Form Property Damage endorsement; and
 - e) An endorsement providing that in the event of reduction or exhaustion of the applicable aggregate limit or limits of liability under the primary policy or policies referred to in the certificate of insurance solely by reason of losses paid hereunder on account of occurrences during the policy period, the excess policy, if any, referred to in the certificate shall (1) in the event of reduction, apply as excess of the reduced limit of liability thereunder; and (2) in the event of exhaustion, continue in force as though it were primary insurance.

B. Liability of Licensee under this section shall not be limited to coverage provided under said insurance policies.

C. Only those contractors and subcontractors of Licensee whose operations are covered by insurance will be authorized to work upon or about the Licensed Area.

X. RESTORATION AND AS-BUILT DRAWINGS. Upon completion of Improvement(s), Licensee shall (i) promptly remove all tools, equipment and materials from the Licensed Area and restore the Licensed Area to substantially the same state and condition (including any irrigation or landscaping improvements disturbed by Licensee) as existed immediately prior to Licensee's and/or its contractor's and subcontractor's activities within the Licensed Area except for the Improvement(s); and (ii) provide RTD with a full-sized set of as-built drawings, stamped by a Colorado professional engineer, as an accurate record of the Improvement(s) with "As-Built" clearly printed on each sheet. This Section shall survive expiration or earlier termination of this License.

XI. ASSIGNMENT. This License may not be assigned, in whole or in part, by Licensee without the prior written consent of RTD. No assignment shall release Licensee from any responsibility or liability hereunder. Any assignment in violation of this Section shall be null and void.

XII. INDEMNIFICATION AND WAIVER. To the extent allowable by law, Licensee shall hold harmless and indemnify RTD and its officers, directors, agents, affiliates, insurers and employees (the "Indemnified Parties") from and against any and all losses, damages, liens, claims, demands, debts, obligations, liabilities, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever (including reasonable attorneys' fees) related to the use

of the Licensed Area, caused by any act, omission or neglect of the Licensee or Licensee's employees, guests, invitees or assignees. Licensee hereby waives and releases all claims against the Indemnified Parties, with respect to all matters for which RTD has disclaimed liability pursuant to this License. This Section shall survive expiration or earlier termination of this License.

XIII. NO DEDICATION; THIRD PARTIES. Nothing herein shall be deemed to be a gift or dedication of any portion of the Licensed Area to the general public, or for any public use, or purpose whatsoever. Except as herein specifically provided, no rights, privileges or immunities of any Party shall inure to the benefit of any third-party, nor shall any third-party be deemed to be a beneficiary of any of the provisions contained in this License.

XIV. BREACH. Any failure of Licensee to fulfill any of Licensee's obligations hereunder shall constitute a breach of this License and subject Licensee to immediate termination of the License, as well as damages and costs, including attorneys' fees.

XV. APPLICABLE LAWS; VIOLATION. Licensee shall use and occupy the Licensed Area in a safe and careful manner and shall comply with all applicable ordinances and regulations of the city and county in which the Licensed Area is situated, the laws of the State of Colorado and of the United States of America, and all other rules of governmental authorities as may be in force and effect during the Term. If at any time the use of the Licensed Area by Licensee violates said applicable ordinances or laws, Licensee shall cease and desist from continuing such use and shall surrender the Licensed Area upon demand by RTD.

XVI. ADDITIONAL LICENSEES. Licensee understands and agrees that during the Term, facilities on the Property may be used by the public or otherwise, and Licensee shall conduct its work so as not to unreasonably interfere with such other uses.

XVII. RTD EQUIPMENT. Licensee shall not use RTD equipment, tools or furnishings located in or about Licensed Area without prior approval by RTD.

XVIII. NOTICES. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the Parties at the addresses given below or at such other address that may be specified by written notice in accordance with this Section:

Licensor: Regional Transportation District
Manager of Real Property

1560 Broadway, Suite 650
Denver, CO 80202

with a copy to:

General Counsel
1600 Blake Street
Denver, CO 80202

Licensee: Adams County, Colorado, a body
corporate and politic and a political
subdivision of the State of Colorado

_____ [Address]

4430 So. Adams County Parkway
_____ [Address]

Brighton, CO _____ [City]
80601 _____ [Zip Code]

XIX. ENTIRE AGREEMENT. This License represents the entire agreement between the Parties regarding the Licensed Area.

XX. AMENDMENT. No change, alteration or modification to any of the provisions hereof shall be effective unless contained in a written agreement signed by the Parties.

XXI. WAIVER, SEVERABILITY. The failure of any Party to exercise any right hereunder, or to insist upon strict compliance by the other Party, shall not constitute a waiver of either Party's right to demand strict compliance with the terms and conditions of this License. If any provision of this License is held to be unenforceable for any reason, its unenforceability shall not affect the remainder of this License, which shall remain in full force and effect and enforceable in accordance with its terms.

XXII. GOVERNING LAW AND VENUE. This License shall be interpreted and enforced according to the laws of the State of Colorado. Jurisdiction and venue for all disputes shall be in the county in which the Licensed Area is located and Licensee expressly submits itself to the jurisdiction thereof.

XXIII. AUTHORITY OF THE PARTIES. The Parties represent that each has taken all actions that are necessary or that are required by its procedures, bylaws, or applicable law to legally authorize the undersigned signatories to execute this License on behalf of the Parties and to bind the Parties to its terms.

XXIV. COUNTERPARTS. This License may be executed in counterparts. Signatures on separate originals shall constitute and be of the same effect as signatures on the same original. Electronic and faxed signatures shall constitute original signatures.


IN WITNESS WHEREOF, the Parties have executed this License:

LICENSOR:

REGIONAL TRANSPORTATION DISTRICT

By:  1/24/14
Date

APPROVED AS TO LEGAL FORM:

By:  1-23-14
Lori L. Graham
Associate General Counsel Date

LICENSEE:

Adams County, Colorado, a body corporate and politic and a political subdivision of the State of Colorado _____

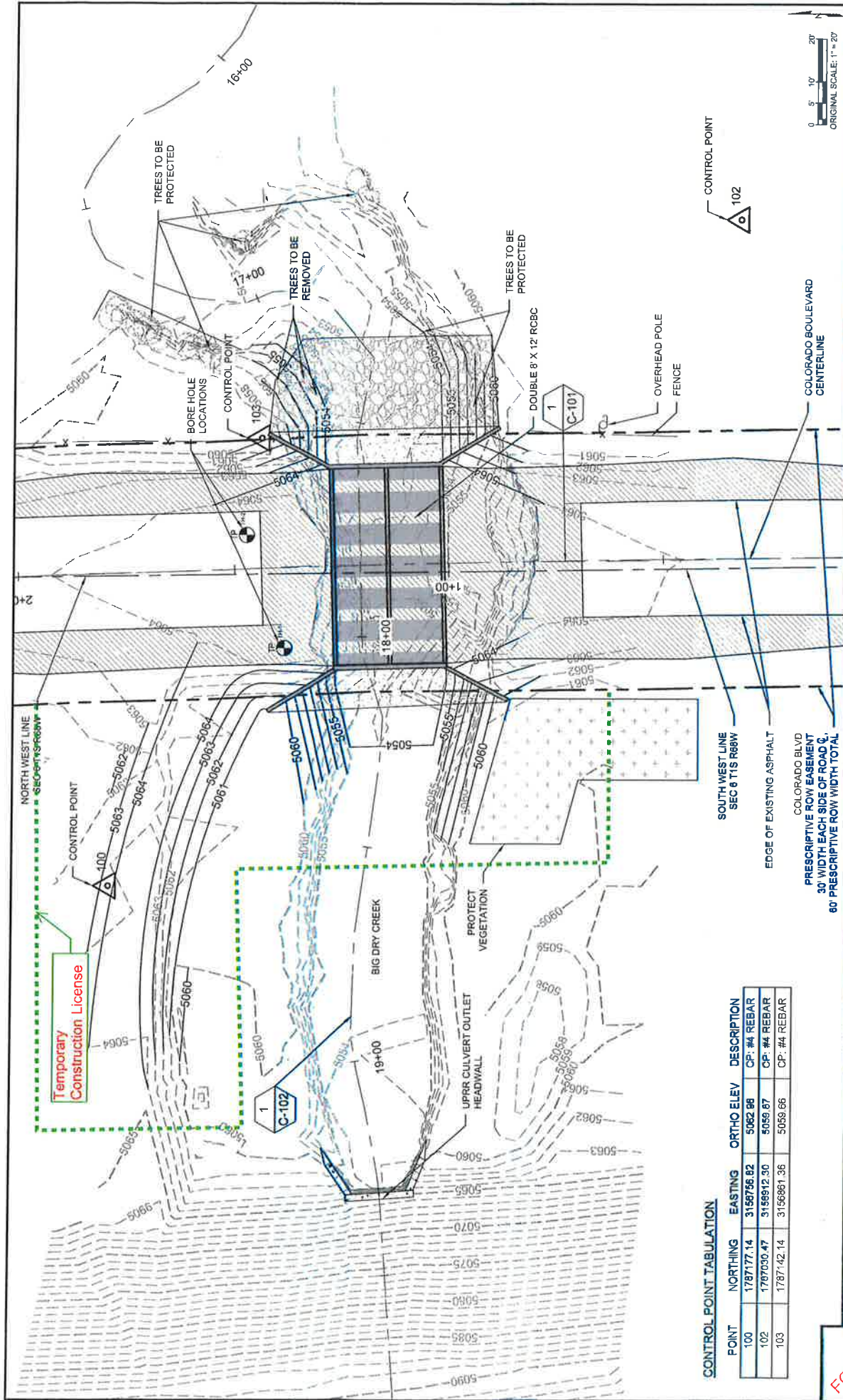
By: 

3-26-14

Date

Name: Chaz Tedesco

Title: Chairman



CONTROL POINT TABULATION

POINT	NORTHING	EASTING	ORTHO ELEV	DESCRIPTION
100	1787177.14	3156756.82	5062.86	CP: #4 REBAR
102	1787030.47	3156912.30	5059.87	CP: #4 REBAR
103	1787142.14	3156881.36	5059.66	CP: #4 REBAR

FOR BID

1000 N. INCOB STREET SUITE 100
 DENVER, COLORADO 80234
 303.838.8114 PHONE
 303.838.8111 FAX

AVRES ASSOCIATES
 WALTER BANNINGTON, P.E. ENGINEER
 WALTER BANNINGTON, P.E. ENGINEER

11/06/2013

ADAMS COUNTY

CULVERT REPLACEMENT AT BIG DRY CREEK AND COLORADO BOULEVARD

OVERALL PLAN

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