CMS No.: _____

CDOT US 6 BRIDGES, KNOX CT. TO BNSF
UTILITY RELOCATION AGREEMENT

This UTILITY RELOCATION AGREEMENT ("URA") is made and entered into, effective as of the date of CDOT's signature, by and between the Colorado Department of Transportation, a division of the State of Colorado created pursuant to the Transportation Act, C.R.S. § 43-1-101, *et seq.*, ("Department" or "CDOT" or "State") and Qwest Corporation d/b/a CenturyLink QC, a company authorized to do business in the State of Colorado ("Owner"). CDOT and Owner may hereinafter be referred to collectively as "Parties" or individually as "Party."

RECITALS

WHEREAS, CDOT is authorized under C.R.S. § 43-1-101, *et seq.* to plan, develop, construct, coordinate, and promote an integrated transportation system in cooperation with the federal, regional, local and other state agencies;

WHEREAS, CDOT is authorized C.R.S. § 43-1-1401 to use a design-build selection and procurement process to provide the department of transportation with: a savings of time, cost, and administrative burden; improved quality expectations with respect to the schedule and budget of transportation projects, as well as completion of such projects; and a reduction in the risks associated with transportation projects, including reduced duplication of expenses and improved coordination of efforts to meet the transportation needs of Colorado;

WHEREAS, C.R.S. § 43-1-1411 authorizes CDOT to enter into project specific utility relocations agreements on design-build projects;

WHEREAS, CDOT proposes to construct a design-build project identified as the US 6 Bridges, Knox Ct. to BNSF Project which will require certain utility relocation work;

WHEREAS, increased coordination between CDOT and Owner and prompt performance of such utility relocation work within an adopted plan schedule is in the public interest and will reduce delays and costs of construction for both CDOT and Owner;

WHEREAS, to accomplish that purpose, CDOT and Owner now desire to enter into this URA, which is one of the utility relocation agreements which provides for the scheduling and timely performance of the US 6 Bridges, Knox Ct. to BNSF Project construction and utility relocation work necessitated by construction of the US 6 Bridges, Knox Ct. to BNSF Project; and

WHEREAS, this URA does not commit any present funding by either Party and is subject to future budgeting, authorization and appropriation processes, as applicable, and is to be implemented through a work-order process.

NOW THEREFORE, the Parties hereto agree as follows:

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AGREEMENTS

1) DEFINITIONS. Unless the context otherwise requires, initially capitalized terms shall have the meanings prescribed to them:

Abandonment means (i) the relinquishment by Owner of all right, title, claim and possession of a Utility and (ii) the Utility Work, as governed by Owner, CDOT, and industry procedures, that is necessary to retire a Utility from service but not physically remove the Utility from its installed location. Owner may not Abandon Utilities within Project ROW or other CDOT property without CDOT's consent, as evidenced by CDOT's signature on the Work Order.

Betterment means the upgrading (e.g., increase in capacity) of a Utility that is not attributable to construction of a Project and is made solely for the benefit of and at the election of Owner (not including a technological improvement which is able to achieve such upgrade at costs equal to or less than the costs of a "like-for-like" replacement or Relocation). The use of new materials or compliance with Owner's Relocation Standards in the performance of Relocation is not considered a Betterment.

Constructing Party means the Party designated on the Work Order as being responsible for construction of a Relocation.

Contractor(s) means the contractors, consultants, and subcontractors, whether hired by CDOT or Owner, undertaking the design or construction of a Relocation, including the CDOT Project Contractor(s).

Cost of Relocation means the entire amount to be paid for Utility Work that is properly attributable to the Relocation after deducting from that amount the cost of any Incidental Utility Work, Betterments, Excluded Environmental Work, Depreciation Value, and/or Salvage Value, as applicable.

Depreciation Value means the amount of credit to a Project required for the accrued depreciation of a Utility based upon the ratio between the period of actual length of service and total life expectancy applied to the original cost. For the purposes of Depreciation Value, "Utility" shall not be construed to include a segment of Owner's service, distribution and/or transmission lines.

Designing Party means the Party designated on the Work Order as being responsible for design of Relocation.

Discovery means physical discovery of an undocumented utility communicated by CDOT or its contractors, agents, or employees verbally or in writing to the Owner's designated project representative or, if no representative has been designated, to the chief engineer or equivalent. Any verbal communication of a Discovery shall be followed by written notice.

Documentary Evidence means all documentation, including without limitation, photographs, maps, or Owner's records, showing installation, maintenance or operation of facilities by Owner or its predecessors in interest that is provided by Owner to support Owner claims of rights by prescription, adverse possession or other legal theory established by use.

Environmental Laws means all federal, state, county, municipal, local and other statutes, laws, ordinances, and regulations that relate to or deal with human health and the environment, as may be amended from time to time, and which govern handling of materials necessary for or

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generated by Utility Work and/or mandate removal of materials as a result of conditions discovered at the Utility site.

Environmental Work means tasks, duties and obligations necessary to comply with Environmental Laws.

Excluded Environmental Work has the meaning prescribed to it in Article 7(d)(iii).

Force Majeure means fire; explosion; action of the elements; strike; interruption of transportation; rationing; shortage of labor, equipment or materials; court action; illegality; unusually severe weather; act of God; act of war; terrorism; or any other cause that is beyond the control of the Party performing Utility Work on a Relocation (including the failure of the other Party (including its Contractors), a relevant permitting authority, or any other third-party contractor, to perform any task that is prerequisite to the Party claiming *Force Majeure* timely performing under this URA) so long as that cause could not have been prevented by that Party while exercising reasonable diligence.

Hazardous Materials means petroleum products and fractions thereof, asbestos, asbestos-containing materials, polychlorinated biphenyls, medical waste, radioactive materials, solid waste, and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, substances and wastes listed or identified in, or regulated by all applicable Environmental Laws, and any excavated soil, debris, or groundwater that is contaminated with such materials.

Incidental Utility Work means tasks performed by any Party that (i) are duplicative of Utility Work undertaken by the Designing or Constructing Party's Contractors (such as design review where the Designing Party's Contractor has created the design), including without limitation, each of the items referenced in (ii); or (ii) are staff or consultant time expended on: exchange and review of documentation with respect to identifying Utilities or unidentified utilities; meetings, whether internal or with the other Party or other affected utility owners, jurisdictions, federal and state agencies, organizations or special districts or other affected third parties; procurement of and coordination with Contractors; coordination and interfacing of Owner's Relocation schedule with the US 6 Bridges, Knox Ct. to BNSF Project design and construction schedules; cooperation with one another's staff or Contractors or with other US 6 Bridges, Knox Ct. to BNSF Project stakeholders (including other affected utility owners, jurisdictions, federal and state agencies, organizations or special districts); preparation, negotiation and execution of Work Orders and Work Order exhibits; review of legal descriptions; review and acceptance of Relocation Plans; and construction inspection and acceptance. **Neither Party shall be reimbursed for costs incurred or time expended in performing Incidental Utility Work.**

Utility Permit means any license, permit, lease, easement, franchise or other use agreement issued by a party having jurisdiction over or ownership of the location in question and pursuant to which Owner operates its facilities in real property not owned in fee by Owner.

Permission means any permission, including without limitation, temporary construction permissions, construction permits, regulatory permission, and/or local agency utility permit that may be necessary to construct, operate, and maintain Owner's utility facilities, including any appurtenances thereto, in any particular location.

Project means replacement of all Bridges and Roadway along US 6 between Federal Boulevard to the Burlington Northern Santa Fe (BNSF) Railroad, widening of Federal Boulevard from 5th to 7th Avenues, and in-kind replacement of impacted facilities of Barnum East Park

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including adding a bicycle/pedestrian Bridge Structure connecting Barnum Parks South and North; all collectively referred to herein as US 6 Bridges, Knox Court to BNSF. The Project will generally include ramp improvements at the I-25/US 6 interchange, partial closure of the Bryant Street interchange, a diamond interchange at US 6/Federal Boulevard with slip ramps to Bryant Street and a braided ramp from Federal Boulevard to eastbound US 6, conversion of 5th Avenue to two-way traffic east of Federal Boulevard, upgrading to current standards portions of the South Platte River Trail impacted by construction, and reconstruction of US 6 with collector-distributor roads/auxiliary lanes through the Project.

Project Commencement means the commencement of work on the US 6 Bridges, Knox Ct. to BNSF Project by the CDOT Project Contractor.

Project Plans means the detailed maps, drawings, plans, and profiles of the Project.

Project Right-of-Way or *Project ROW* means real property (which term is inclusive of all estates and interests in real property, including Public Lands but exclusive of temporary construction permissions) owned or controlled by CDOT that is necessary for operation of the Project after such Project has been constructed.

Project Site means the land, spaces and surfaces, including the Project ROW and any temporary construction easements, that are necessary for construction of the Project.

Protection in Place or *Protect in Place* means activity necessary to ensure the safe operation and structural integrity of a Utility that will not be removed or transferred to another location, including without limitation, modification of location (such as lowering the Utility); construction staking of the Utility location during Project or Project-related construction; adjustment of Relocation Plans to avoid exposing a Utility to construction equipment; installing steel plating or concrete slabs; encasement of the Utility; temporarily de-energizing power lines; or installing physical barriers.

Public Lands means, solely for purposes of this URA, real property dedicated to or created as public right-of-way.

Relocate or Relocation means the adjustment of a Utility that is necessary for the continuous operation of Utility service, Project economy, sequencing of Project construction, or to bring the Utility into compatibility with the implementation of a Project, including without limitation: Removal and reinstallation, including necessary temporary facilities; transfer or modification of location; acquiring necessary right-of-way at a new location; moving, rearranging, or changing the type of Utility (exclusive of Betterments); Abandonment; Protection-In-Place; and construction of a replacement utility that is functionally equivalent.

Relocation Plans means the preliminary and final Utility Relocation design plans and construction documents. Relocation Plans shall comply with the Relocation Standards and with the terms of this URA.

Relocation Standards means the written standards, procedures, and criteria utilized by Owner and CDOT. The Relocation Standards of each Party shall be utilized in determining whether a Utility is in conflict with the Project. The Relocation Standards in effect as of the execution date of the Work Order shall govern the Relocation covered by that Work Order and shall be either attached to the Work Order or incorporated therein by reference.

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Removal means the removal of Utility materials, including the demolishing, dismantling, removing, transporting, or otherwise disposing of Utility materials and cleaning up to leave the Relocation site in a neat and presentable condition, all in accordance with federal, state, and local law.

Responsible Party means the Party responsible for the Cost of Relocation.

CDOT Project Contractor means the organization hired by CDOT to perform the final design and construction of the Project.

Salvage Value means the amount received from the sale of Utility material that has been removed or the amount at which the recovered material is charged to Owner's accounts if retained by Owner for use, in accordance with 23 C.F.R. 645.

Utility or Utilities means a facility or facilities, including necessary appurtenances, owned and/or operated by Owner that has been identified as potentially posing a conflict with the implementation of the Project. Utility shall also refer to any such facility during and after Relocation.

Utility Work means tasks, obligations and duties, exclusive of Incidental Utility Work and Excluded Environmental Work, required to either accomplish Relocation or confirm that no Relocation is required for a Utility, whether performed by CDOT or Owner, including:

a) design of the Relocation, including the creation of Relocation Plans;

b) construction of the Relocation, including labor, materials and equipment procurement, temporary Relocation, and Relocation of existing service lines connecting to any Utility, regardless of the ownership of such service lines or of the property served by such service lines; and

c) activities undertaken to effectuate the Relocation, hereinafter collectively referred to as "Utility Coordination," including without limitation:

   i) verification by survey, potholing or otherwise that a Utility is, or is not, in conflict with the Project;

   ii) provision of survey coordinate data, field surveys, and construction staking in the field for the construction of a Relocation;

   iii) acquisition of Permissions and property interests;

   iv) public information;

   v) traffic control;

   vi) resurfacing and restriping of streets and reconstruction of curb and gutter and sidewalks as may be required by any relevant authority;

   vii) development of and delivery to the non-Constructing Party of as-builts (or, in the alternative, drawings marked to show changes in the field) showing each Relocation; and

   viii) activities performed to ensure and document that Utility Work is in accord with Relocation Plans, including, without limitation, materials handling; construction procedures; calibrations and maintenance of equipment; document control; production process control; and any sampling, testing, and inspection done for these purposes (collectively, "Quality Control").

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Work Order means the document under which all Relocations shall be implemented and the Responsible Party designated, in accordance with Article 10.

2) LIST OF EXHIBITS. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A	Form of No-Conflict Close-Out Form
Exhibit B	Form of Utility Work Order
Exhibit C	Form of Design of Relocation Acceptance Letter (DRAL)
Exhibit D	Form of Construction of Relocation Acceptance Letter (CRAL)

3) SCOPE OF AGREEMENT.

a) This URA provides for the scheduling and timely performance of Relocations necessitated by implementation of the Project and prescribes the process for determining, among other things, the Party responsible for the Cost of Relocation.

b) This URA does not commit funding by either Party nor bind any Party to responsibility for the cost or performance of any Relocation. Each Relocation for the Project will be implemented by a Work Order to be negotiated and agreed by the Parties and which shall serve as the documentation binding the Parties as to responsibility for Cost of Relocation and performance of Utility Work. Until a Work Order is executed by a Party, that Party is not bound with respect to any matters represented therein, including responsibility for cost or performance of any Utility Work.

c) A Work Order, which shall be consistent with this URA, shall be issued for each Relocation and will identify, among other things, the Parties, the Project, the Utility (by Project-specific identification number and general description) and the Relocation schedule.

4) FEDERAL/STATE/LOCAL REQUIREMENTS.

a) Notwithstanding any provision of this URA that may be to the contrary, all Relocation Plans, Relocation Standards, Cost of Relocation estimates, and billings for Relocation for which CDOT is the Responsible Party shall comply with the requirements of 23 C.F.R. 645, as may hereafter be amended, which is incorporated herein by this reference. This URA is subject to and the Parties agree to comply with C.R.S. § 43-1-1410.

b) The Parties shall at all times in the performance of Utility Work, Incidental Utility Work and Excluded Environmental Work strictly adhere to, and comply with, all other applicable federal and state and local laws and their implementing regulations as each currently exists and may hereafter be amended.

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c) The Parties shall require such compliance with all applicable laws, regulations and requirements in all Contractor agreements governing performance of Relocations under this URA.

d) Each Party shall contractually require its Contractors to coordinate and cooperate with the other Party and with other Contractors involved in Utility Work and Incidental Utility Work.

5) COORDINATION AND COOPERATION

a) The Parties each agree to coordinate and cooperate with one another and with their respective Contractors in order to ensure that Utility Work, Incidental Utility Work, and any Excluded Environmental Work are performed promptly, and in close coordination with the Project implementation.

b) The Parties shall attempt to identify any Utilities that can reasonably be Relocated prior to Project Commencement; however, to the extent Owner facilities have not been identified, confirmed as conflicted, or Relocated prior to Project Commencement, the Parties will coordinate and cooperate with one another and with the CDOT Project Contractor to complete the Relocation of such utilities.

c) CDOT intends to contractually delegate certain of CDOT's rights and obligations hereunder to the CDOT Project Contractor, who shall be required to comply with the terms of the URA governing those rights and obligations delegated. Owner acknowledges that, except as specifically provided herein, CDOT can and will delegate to the CDOT Project Contractor CDOT's obligations under this URA, including any Utility Work that Owner elects to have CDOT perform. Any such delegation shall not relieve CDOT of its duties under the URA or under statute.

d) The CDOT Project Contractor is an express, intended third-party beneficiary to this URA. Other than the CDOT Project Contractor, there are no third-party beneficiaries.

e) CDOT shall provide Owner with written notice of Project Commencement.

6) IDENTIFICATION OF UTILITIES.

a) CDOT shall provide Owner with the Project Plans in electronic format at the conclusion of preliminary engineering, conclusion of final design, and at such other times that CDOT receives a formal design submittal from the CDOT Project Contractor. In addition, CDOT shall provide Owner, in hard-copy format, those portions of the Project Plans that show the location of Owner's Utilities. CDOT shall provide Owner with written notice of Owner's affected Utilities for the Project.

b) CDOT, in coordination and cooperation with Owner, shall identify and track the Relocation status of Owner's Utilities on a Utility matrix ("Utility Matrix"). Utility Matrices shall be updated by CDOT as Utilities are identified and Relocated and will reflect changes, clarifications, corrections or developments with respect to each Utility's conflict status. Updated Owner-specific Utility Matrices will be provided to Owner upon request. CDOT and Owner shall meet regularly to verify whether, based upon then-current Project Plans, a Utility requires Relocation and to determine the possibility of Relocating any Utility prior to notice of Project Commencement. If at any time a Utility Matrix provided to Owner fails to identify Owner utilities that Owner knows or should reasonably know may be in conflict with a Project, Owner shall notify CDOT of such unidentified Owner utility and provide all documentation with respect thereto, and the Owner utility will be added to the Utility Matrix.

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c) For any Discovery of utilities during construction that are not identified on documents provided to or in possession of CDOT, CDOT and the Owner shall confer within forty-eight hours of discovery to determine appropriate relocation procedures.

d) Owner and CDOT will meet to confirm the conflict status of each of Owner's Utilities, which determination will be made by reference to the Relocation Standards. If a Utility is confirmed to be in conflict with the Project, CDOT and Owner shall coordinate to determine the nature of the Relocation required based upon the Relocation Standards, and CDOT shall update the Utility Matrix to reflect the recommended action and issue a Work Order. If CDOT, the CDOT Project Contractor and Owner each agree that a Utility is not in conflict with the Project, the CDOT Project Contractor and Owner shall execute a document for each such Utility affirming that the Utility is not in conflict ("No Conflict Close-Out Form"), the form of which is attached as Exhibit A.

e) Populated Utility Matrices are informational documents utilized for CDOT's Utility tracking purposes only. Information contained in the Utility Matrix is non-binding until reflected on either an executed No-Conflict Close-Out Form or on an executed, mutually-agreed Work Order, which, in conjunction with the URA, serves as the binding documentation governing a Utility's Relocation status. All information contained in the Utility Matrix is subject to CDOT's receipt and review of documentation related to the Utilities. In addition, this URA is entered without prejudice to any aspect of any applicable environmental clearance process. All Project elements, including horizontal and vertical alignments, drainage, and right-of-way plans are subject to receipt of the environmental decision documents and any mitigation measures specified therein.

7) COST OF RELOCATION.

a) Once a Utility is confirmed to be in conflict with the Project, the Parties shall, as soon as is reasonably possible and to the extent they have not already done so, exchange all documentation, including Utility Permits and/or Documentary Evidence, governing the location in question in order to determine the responsibility for the Cost of Relocation. If Owner submits Documentary Evidence to CDOT, CDOT shall have the right to utilize and have considered any additional documentation with respect to the claim that it obtains or has in its possession. The Parties shall mutually agree as to the nature of Owner's rights or, failing such agreement, shall treat the claim as a Dispute under Article 19.

b) The Cost of Relocation shall be presumed to be borne by CDOT except in the following circumstances:

i) where the Utility is located in Project ROW or other CDOT property pursuant to an Utility Permit held by, acquired by, or assigned to CDOT that is revocable and/or requires Owner to pay the Cost of Relocation;

ii) where the Utility is located in Project ROW or other CDOT property but Owner can provide no Utility Permit or competent Documentary Evidence of its right to operate Utilities in the location in question;

iii) where the Utility is located in property not owned by Owner pursuant to an Utility Permit that requires Owner to relocate at Owner's cost and the holder of such Utility Permit exercises its rights under said agreement; or

iv) where federal, state or local law requires that Owner pay the Cost of Relocation.

c) Notwithstanding anything in this URA which may be interpreted to the contrary, if a Relocation of a Utility is required based upon information, surveys, plans or other

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information which is provided by a Party and the information is incorrect or revised causing additional Relocations of the same Utility (or any part thereof), the Cost of Relocation for the second and each subsequent Relocation will be paid by the Party that provided the incorrect information or caused the revisions necessitating the subsequent Relocation.

d) Environmental Work.

i) If Hazardous Materials contamination unrelated to Owner's utility facilities is discovered on the Project Site by the Constructing Party, the Constructing Party shall promptly notify the other Party of such Hazardous Materials contamination and, if Owner is the Constructing Party, Owner shall cease all construction of Relocation at the location in question until such time as Environmental Work at that location has been completed. Owner shall not be responsible to conduct or pay the costs of Environmental Work, except as specifically prescribed in this Article 7(d).

ii) The previous paragraph notwithstanding, the Responsible Party is responsible for the cost of, and the Constructing Party shall perform, any Environmental Work necessitated by the removal of intact Owner Utility materials that happen to contain or constitute Hazardous Materials.

iii) In addition, to the extent that any Environmental Work is required to remediate Hazardous Materials contamination caused by (A) the construction, operation, or maintenance of Owner's Utility in its existing location and/or (B) negligent or willful acts or omissions of Owner or its Contractors in constructing the Relocation ("Excluded Environmental Work"), Owner shall be responsible for the costs of all such Excluded Environmental Work and may be required to undertake such Excluded Environmental Work.

iv) CDOT shall extend the deadline for completion of Relocations effected by Hazardous Materials contamination while Environmental Work and/or any Excluded Environmental Work described in Article 7(d)(iii)(A) is undertaken. Owner shall make reasonable efforts to redistribute its Relocation crews to other Relocation sites while unable to perform at any contaminated location.

e) Credits

i) If CDOT seeks Depreciation Value credit pursuant to 23 C.F.R. 645 for a Utility Relocation for which CDOT is the Responsible Party, Owner shall furnish evidence of the period of actual length of service and total life expectancy of the Utility as well as evidence of the original cost to install the Utility. Based upon the submitted evidence, the Cost of Relocation shown on any Work Order shall reflect the Depreciation Value credit due.

ii) Owner shall furnish CDOT with evidence of any Salvage Value received for a Utility Relocation for which CDOT is the Responsible Party, as required by 23 C.F.R. 645. Based upon the submitted evidence, the Cost of Relocation shown on the Work Order shall reflect the Salvage Value credit due. Where CDOT is also the Constructing Party, salvageable Utility property or material removed during Relocation that is not reused shall become the property of CDOT, unless otherwise noted in the Work Order.

f) Where possible, the Cost of Relocation shall be negotiated on a "lump-sum" rather than on an "actual cost" basis. However, no lump-sum arrangement will be entered into for any Relocation if such arrangement would preclude federal reimbursement pursuant to 23 CFR 645. If the Cost of Relocation is negotiated on a lump-sum basis, each Party's

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financial obligation (if any) for the Relocation shall be limited to the lump-sum amount expressly stated and itemized in the Work Order issued for that Relocation. If the Cost of Relocation is negotiated on an actual cost basis, the amount shown on the Work Order shall be an estimated cost, which estimate shall not be exceeded without written amendment of the Work Order. Responsibility for the Cost of Relocation shall not bind the Responsible Party until the Work Order is executed by the Responsible Party. Reimbursement, as necessary, is governed by Article 16.

8) REAL PROPERTY INTERESTS.

a) Utilities Located By Utility Permit

Any Owner Utilities currently located or anticipated to be located in Project ROW or other CDOT property shall be permitted only by a CDOT Utility Permit or local agency responsible for issuing Utility Permit, which Owner and CDOT shall have executed prior to commencement of construction of Relocation. If Owner currently holds an Utility Permit for Owner's facilities in Project ROW or other CDOT property, the terms and conditions of that Utility Permit, as may be amended by mutual agreement of the Parties, shall continue to govern Owner's facilities at that location, unless that Utility Permit is terminated. CDOT reserves the right to convert any such Utility Permit assigned to it in connection with the conveyance of Project ROW or CDOT property into a CDOT Utility Permit, provided that both CDOT and Owner shall enjoy substantially the same rights and obligations contained in the assigned Utility Permit.

b) Permission to Perform Utility Work

i) Owner shall not install any new facilities in Project ROW or CDOT property without first obtaining a CDOT Utility Permit or local agency responsible for issuing Utility Permit.

ii) If Owner's Utilities are located in Project ROW or other CDOT property pursuant to an effective Utility Permit, Owner's Relocation and permission to enter upon the Project ROW or CDOT property to undertake Relocation shall be governed by, and in accordance with, the terms of such Utility Permit. If the location of the Relocated Utility is materially changed, Owner's current Utility Permit shall be amended to reflect the revised location.

iii) If Owner's Utilities are located in Project ROW or other CDOT property without an effective Utility Permit, Owner shall not commence construction of Relocation on Project ROW or other CDOT property without first obtaining a CDOT Utility Permit from CDOT or local agency responsible for issuing Utility Permit.

iv) Notwithstanding (i) through (iii), above, CDOT's signature on a Work Order shall constitute permission for Owner and its employees, agents, and Contractors to enter upon Project ROW or other CDOT property for the sole purpose of performing activities necessary to design the Relocation, including without limitation, surveying and potholing, but excluding boring, sampling or other testing, all subject to each of the terms and conditions contained in this URA. Permission for Owner or its Contractors to traverse the property of any other property owners or interest-holders is the sole responsibility of Owner.

c) Property Acquisition and Reimbursement

i) Where reasonably possible, Utilities located within Public Lands shall be Protected-in-Place. Where a Utility is located in Public Lands and must be Relocated out of Public Lands, the Parties shall initially attempt to Relocate into Public Lands. If the

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Parties cannot so Relocate, the Parties shall meet to determine a suitable Relocation location and a schedule and plan to acquire any property interests necessary for the Utility's Relocation. The Party responsible to acquire Utility property interests shall be identified on the Work Order. Regardless of who performs acquisition of replacement property, both Parties shall have the right to examine and approve the property acquisition transaction contemplated for the new Utility location in order to confirm that a 'like-for-like' replacement of property interests is to be acquired. All property acquisition costs are Utility Work Costs of Relocation and shall, therefore, be borne by the Responsible Party. Property interests necessary for any Relocation must be obtained prior to commencement of construction of Relocation.

ii) If Owner's Utility occupies real property pursuant to fee interest held by Owner as evidenced by documentary proof provided to and approved by CDOT ("Owner Property") and CDOT requires Owner Property for Project ROW or Project construction, the Parties shall, whenever reasonably possible, attempt to Protect the Utility in Place so that it will not be in conflict with the Project. However, if the Parties cannot Protect the Utility in Place, replacement property interests shall be acquired in accordance with Article 8(c)(i) hereof. Once the Utility has been Relocated into a new location and is in service, Owner shall convey to CDOT the Owner Property that is required for the Project. CDOT shall either reimburse Owner for the cost of the Owner Property conveyed to CDOT or shall pay the costs to acquire replacement property interests at least as equal to the interests in the prior location for Owner.

iii) If Owner's Utility occupies real property pursuant to a permanent easement (including proven prescriptive rights) held by Owner as evidenced by documentary proof provided to and approved by CDOT ("Owner Easement") and CDOT requires the Owner Easement for Project ROW or Project construction, the Parties shall, whenever reasonably possible, attempt to Protect the Utility in Place so that it will not be in conflict with the Project. However, if the Parties cannot Protect the Utility in Place, replacement property interests shall be acquired in accordance with Article 8(c)(i) hereof. Once the Utility has been Relocated into a new location and is in service, Owner shall deed, assign, vacate, abandon or release the Owner Easement, as applicable, and, CDOT shall pay the cost of the replacement property interests, provided that CDOT shall be entitled to offset the cost of replacement property interests or the Cost of Relocation by the amount that Owner receives as compensation from any source for the transfer of rights in the Owner Easement. If CDOT has paid the cost of acquisition of replacement property interests and has paid the Cost of Relocation, Owner shall be required to pay to CDOT any compensation received from any source for the transfer of rights in the Owner Easement.

iv) This URA is not intended to waive Owner's rights to be paid just compensation in the event that CDOT should require Owner Property or Owner Easement for the Project. If no agreement is reached with respect to any particular Owner Property or Owner Easement needed for the Project, CDOT may bring an action to condemn if permitted by, and in accordance with, applicable law, and Owner retains its rights to bring an action for inverse condemnation.

v) If necessary, Work Orders shall be revised to reflect the impact of property acquisition to the construction completion date shown on the Work Order. All real property acquired for the Project by CDOT, including for Utility Relocations, must be and shall be acquired pursuant to the Uniform Acquisition and Relocation Act, 42 U.S.C.A. §4601 and applicable right-of-way procedures in 23 C.F.R. 710.203.

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9) PERMISSIONS. Owner shall obtain all Permissions for which Owner is required to be the named permittee. The Constructing Party shall obtain all other Permissions. The Parties agree to cooperate with one another in obtaining any Permission and to exchange copies promptly after obtaining any Permission.

10) WORK ORDER PROCESS. Relocations required by a Project shall be undertaken pursuant to a Work Order ("Work Order"), the form of which is attached as Exhibit B. Once a Utility is confirmed to require Relocation and the Parties have agreed upon the Work Order content, the Parties shall negotiate a Work Order. For Relocations to be undertaken prior to Project Commencement, the Work Order shall be executed first by Owner and then by CDOT, and shall not require the CDOT Project Contractor's signature. For Work Orders commenced after Project Commencement, the Work Order shall be executed first by Owner, then by the CDOT Project Contractor and finally by CDOT. Work Orders shall not be binding upon any Party until executed by that Party.

a) Work Order Content. Work Orders shall identify: the existing and proposed location of the Utility; concise description of Owner's property interests or Utility Permits where currently located; the agreed Relocation and detailed scope of work; the Designing Party; the Constructing Party; the Responsible Party; whether reimbursement, if any, is to be made on a lump sum or actual cost basis; the negotiated lump-sum or actual not-to-exceed Cost of Relocation, inclusive of any estimated Depreciation Value and Salvage Value credits and less the cost of any Betterments and/or Excluded Environmental Work; an indication of whether replacement property interests are required for Relocation and the Party responsible for acquisition thereof; the estimated actual not-to-exceed cost, if any, to acquire replacement property interests; the schedule for commencement and completion of both design and construction of the Relocation; the most-current CDOT Project Plans at the Utility location; the Relocation Standards applicable to the Relocation (hard copy or reference); and any other terms and conditions applicable to the Relocation, such as approved service interruptions or negotiated Betterments and payment arrangements therefor, (collectively, "Work Order Content"). The non-Designing Party shall be solely responsible to provide (hard-copy, electronically, or by reference) the Relocation Standards that it requires the Designing Party to apply to the Relocation covered in the Work Order. If Relocation Standards are not so provided, the Designing Party shall not be responsible for the cost of any corrective Utility Work.

b) Service Continuity. There shall be no shutdowns or temporary diversions of Owner's Utilities unless agreed by Owner and evidenced in detail on the Work Order. Owner shall have sole responsibility to operate any valves and/or switches, as applicable, unless Owner requests otherwise in writing. Owner's Utilities shall otherwise remain fully operational during all phases of Project construction. Except where due to *Force Majeure*, and without waiving any claims under applicable law that the Constructing Party may have against the Designing Party, the Constructing Party shall be responsible for the actual documented costs and damages incurred by Owner arising out of any unapproved interruption in Owner's Utility service resulting from performance of Utility Work or Project construction.

c) Work Order Preparation. To the extent such documentation has not previously been exchanged, CDOT and Owner shall coordinate the exchange of all information necessary for preparation of the Work Orders and shall promptly meet to resolve through good faith negotiation any comments or disagreements with respect to Work Order Content. If the Parties cannot reach agreement on the Work Order Content, the Work Order shall be handled as a Dispute in accordance with Article 19. Once the Parties

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have reached agreement on the Work Order Content, the Work Order shall be prepared by CDOT for execution by Owner. Work Orders may be delivered by e-mail, facsimile, hand delivery, or by certified or registered first class mail. Owner shall respond within 14 calendar days after receipt of the Work Order either by executing the Work Order or providing comments.

d) Work Order Conclusive. Once a Work Order is fully executed, that Work Order shall be conclusive as to all matters represented therein. Any material change to the Work Order scope of work and any change that will result in an increase in the time necessary to complete a Relocation or an increase to the Cost of Relocation above the amount authorized on the Work Order must be shown on a revised duly executed Work Order. Executed Work Orders, as they may be revised from time to time, are incorporated into this URA by this reference.

11) BETTERMENT.

a) If Owner requests a Betterment, CDOT will determine, in its sole discretion, whether Betterment work at any specific location can be accommodated based upon the following considerations: (i) whether the work is compatible with Project work; (ii) whether the work would delay any Project schedule; and (iii) if CDOT is the Responsible Party, whether it is feasible to separate the Betterment work from any related Utility Work being performed by the Constructing Party.

b) If CDOT agrees to include a Betterment at any specific location and CDOT is either the Constructing Party, Responsible Party or both, Owner and CDOT (and, after Project Commencement, the CDOT Project Contractor) shall negotiate the price (lump-sum or actual cost) for said Betterment and shall include the cost and terms of the Betterment in a Work Order. All Betterment work, including the cost to CDOT for incremental design, shall be at Owner's sole cost.

c) Where CDOT is the Designing or Constructing Party, upon execution of the Work Order, Owner shall deposit the total price of the Betterment work with CDOT. If the negotiated price is on an actual cost basis, CDOT shall notify Owner whenever the cost of such Betterment work reaches 80% of the negotiated price specified for the Betterment on the Work Order. If the actual costs exceed the negotiated price specified for the Betterment on the Work Order, the Contractor will not proceed unless the increased cost is agreed by Owner on a revised Work Order and paid by Owner to CDOT prior to progressing with the work.

12) DESIGN AND REVIEW OF RELOCATION PLANS. Completed Relocation Plans shall be submitted to the non-Designing Party for review, who shall review the Relocation Plans solely for conformance with the URA and with the Relocation Standards provided by the non-Designing Party. Approval or rejection of Relocation Plans shall be returned to the Designing Party by no later than 14 calendar days after its submission, unless a different time period is expressly provided in the respective Work Order. The non-Designing Party's approval of Relocation Plans shall be evidenced by an executed design of relocation acceptance letter ("DRAL"), the form of which is attached as Exhibit C. All DRALs shall be prepared by CDOT for execution by the non-Designing Party. Rejection of Relocation Plans shall be made in writing and shall specify the grounds for rejection as well as suggestions for correcting non-conformance. The revised Relocation Plans shall be re-reviewed and either approved or rejected not later than 7 calendar days after re-submission to the non-Designing Party. Prior to Project Commencement, CDOT's Project design Contractor shall execute DRALs for CDOT. After Project Commencement, the CDOT Project Contractor shall execute DRALs for CDOT.

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13) CONSTRUCTION OF RELOCATION; INSPECTIONS.

a) After execution of the DRAL, the Constructing Party shall determine whether all Permissions have been obtained and, if necessary, take steps to obtain any Permission that has not been obtained. The Constructing Party shall provide notice to the other Party of its anticipated construction of Relocation commencement date.

b) Completed construction of Relocation shall be inspected immediately following completion for conformance with the URA and Relocation Plans. The non-Constructing Party's approval of construction of Relocation shall be evidenced by an executed construction of relocation acceptance letter ("CRAL"), the form of which is attached as Exhibit D. All CRALs shall be prepared by CDOT for execution by the non-Constructing Party. If the construction of Relocation is approved, CRALs shall be executed immediately after inspection. Rejection of construction of Relocation shall be made in writing within 24 hours of inspection and shall specify the grounds for rejection as well as suggestions for correcting non-conformance. The revised Relocation shall be re-inspected for conformance with corrective suggestions immediately following corrective work and either approved or rejected after re-inspection. Provided that the non-Constructing Party approves the re-inspected construction of Relocation, CRALs shall be executed upon completion of re-inspection. A non-Constructing Party's inspection, approval and acceptance of any construction of Relocation performed shall not be construed as a waiver of any claim that the non-Constructing Party may have under applicable law. **CDOT approval of construction of Relocation performed by Owner shall be limited to Utility Work performed within Project ROW or CDOT property**. After Project Commencement, the CDOT Project Contractor shall execute CRALs for CDOT.

c) If Relocations and Relocation inspections are directly coordinated with Project construction or are undertaken on the Project Site and the potential for conflicting traffic control operations exists, CDOT shall perform the required traffic control, regardless of whether the Relocation is performed by CDOT or Owner. CDOT shall perform construction staking on the Project Site for all Relocations.

d) The Constructing Party shall provide the non-Constructing Party as-built plans or drawings marked to show changes in the field not later than 90 calendar days after the execution of the respective CRAL.

14) APPROVALS AND ACCEPTANCES. Approvals and acceptances shall not be unreasonably withheld or delayed. If approval or acceptance is withheld, such withholding shall be in writing and shall state with specificity the reason for withholding such approval or acceptance. Every effort shall be made to identify with as much detail as possible what changes are required for approval and acceptance.

15) OWNERSHIP, OPERATION, AND MAINTENANCE OF UTILITIES.

a) If Owner is the Constructing Party, ownership and all responsibilities for operations and maintenance of the Utility shall be Owner's. If CDOT is the Constructing Party, Owner shall assume ownership and all responsibilities for operation and maintenance of the Utility upon execution of the CRAL.

b) If Owner Utilities remain located within Project ROW after all Utility Work has been completed, Owner's access for maintenance and servicing of the Utilities shall be allowed exclusively pursuant to and in accordance with the Utility Permit governing that location.

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16) REIMBURSEMENT.

a) The Responsible Party shall be identified on the Work Order. The Designing or Constructing Party (if not the same as the Responsible Party) may invoice the Responsible Party no more than monthly. Invoices shall cover all Utility Work performed since the prior invoice submission. The previous sentence notwithstanding, any costs incurred to acquire replacement property interests for Owner's utilities under this URA must be invoiced separately and must have been acknowledged as a cost on the Work Order.

b) The Responsible Party shall make payment within 60 days of receipt of invoice. If the Responsible Party disputes any portion of the invoice, it may withhold payment for the disputed portion while timely remitting payment on the undisputed portion. All invoices for Utility Work must be submitted not later than one year after execution of the corresponding CRAL for that Utility Work. All invoices submitted to CDOT for reimbursement shall be reviewed for compliance with the cost eligibility and reimbursement standards contained in 23 CFR 645.101, *et seq*.

c) The Responsible Party will ensure that it has budgeted, authorized, and appropriated funds for all Utility Work costs specified in a Work Order. Neither Party will authorize any Work Order or Work Order revision that will cause the lump-sum or estimated not-to-exceed actual cost shown to increase beyond the previously appropriated amounts, unless the Responsible Party appropriates additional funds. Execution of a Work Order or Work Order revision by the Responsible Party is a representation that it has sufficient funds available for the Utility Work identified in the Work Order.

17) DEADLINES AND DELAYS.

a) Except where due to *Force Majeure*, if CDOT or the CDOT Project Contractor fails to meet a deadline established herein or in the applicable Work Order, CDOT shall reimburse Owner for the actual documented costs and damages arising out of any such delay. CDOT shall not be liable to Owner for any delay in, or failure of performance of, any covenant or promise contained in this URA, nor shall any delay or failure constitute default or give rise to any liability for damages if and only to the extent that such delay or failure is caused by *Force Majeure* and CDOT has provided Owner notice of such *Force Majeure*.

b) Time is of the essence in the performance of all Utility Work specified in all Work Orders. Where Owner has elected to perform Utility Work, Owner shall be liable to CDOT only for actual damages suffered by CDOT as a direct result of Owner's delay in the performance of any Utility Work or as a direct result of Owner's interference with the performance of the Project construction by other contractors, except to the extent where those damages were caused by CDOT or its employees, contractors or agents or *Force Majeure* and Owner has provided CDOT notice of such *Force Majeure*.

c) In addition to, and without limiting any rights or remedies available under this URA or otherwise, if Owner has elected to perform the Relocation Utility Work described in a Work Order and Owner fails to complete that Utility Work on or before the deadline established in the applicable Work Order, or if CDOT reasonably determines that Owner will be unable to timely complete such Utility Work, CDOT shall, after providing Owner 14 days to cure or provide a plan to cure, issue a Dispute Notice in accordance with Article 19. If the Parties are unable to resolve the Dispute, CDOT or Owner shall proceed to court in accordance with C.R.S §24-4-106. The venue for all disputes shall be in state District Court for the City and County of Denver, Colorado except, if applicable for condemnation or inverse condemnation claims, which will be filed in the State District

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Court for the County where the real property at issue is located. Owner shall be responsible for delay damages to CDOT in accordance with 17(b).

d) Continuing Performance. In the event of a Dispute, the Parties agree that they will continue their respective performance as required hereunder, including paying invoices, and that such continuation of efforts and payment of invoices shall not be construed as a waiver of any legal right or power: (a) of any Party under this URA, any Work Order, or any other agreement executed pursuant hereto; or (b) otherwise available pursuant to applicable law.

18) NOTICES; REPRESENTATIVES AND AUTHORITY.

a) Notices. Any and all notices required to be given by CDOT or Owner pursuant to this URA must be provided in writing, deliverable by e-mail, facsimile, hand delivery, or by certified or registered first class mail, to the Party representatives identified herein. Notice shall not be deemed given if not provided in the manner prescribed in this Article 18. Once Owner receives notice of Project Commencement, all notices to CDOT shall be concurrently given to the CDOT Project Contractor identified therein.

b) Party Representatives. For the purpose of this URA, the individuals identified below are hereby-designated representatives of CDOT and Owner. Either Party may from time to time designate in writing new or substitute representatives.

FOR CDOT:

Kevin Sullivan
CDOT Project Director
2000 S. Holly St
Denver, Colorado 80222
Phone: 303-972-9112
e-mail: kevin.sullivan@dot.state.co.us

FOR OWNER:

Justin Metzler
CenturyLink Area Manager
5325 Zuni Street, Room 728
Denver, CO 80221
Phone: 303-451-3240
Fax: 303-525-7086
e-mail: Justin.metzler@centurylink.com

c) Authority. Party representatives shall each have the authority to negotiate, approve and execute Work Orders, DRALs, CRALs, Work Order revisions, and, where applicable, No-Conflict Close-Out Forms; review and approve or reject Relocation Plans; inspect and approve or reject construction of Relocation; review invoices for payment; and otherwise act for the Party represented. Either Party may limit the signature authority of its Party representative by submission to the other Party of written notice specifically identifying the extent of and limitations of the Party representative's authority.

19) DISPUTE RESOLUTION.

a) Dispute Notice. In the event of any dispute, claim, or controversy arising out of or relating to this URA, any Work Order, or any Utility Work involving or otherwise relating to the Project or the Utility Work ("Dispute"), the complaining Party shall provide a notice

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of Dispute ("Dispute Notice") to the other Party except where the non-complaining Party waives the requirement to receive a Dispute Notice in writing. The Dispute Notice shall describe the facts surrounding the Dispute in sufficient detail to apprise the other Party of the nature of the complaint. The complaining Party may, but will not be required to, aggregate the Dispute with other Disputes into one Dispute Notice.

b) Good Faith Negotiation. CDOT and Owner shall attempt to settle all Disputes. To this effect, CDOT and Owner shall conduct at least one face-to-face meeting between the Party representatives identified herein to attempt to reach a solution satisfactory to both CDOT and Owner. Such meeting shall take place within 7 calendar days following delivery of a Dispute Notice. If that meeting does not resolve the Dispute, CDOT and Owner shall each designate an official, at a level no lower than CDOT Project manager and Owner chief engineer, to resolve the Dispute.

c) Legal Remedies. If CDOT and Owner fail to resolve a Dispute in accordance with Article 19(b), either Party may proceed to court in accordance with C.R.S §24-4-106. The venue for all disputes shall be in state District Court for the City and County of Denver, Colorado except, if applicable for condemnation or inverse condemnation claims, which will be filed in the State District Court for the County where the real property at issue is located and may pursue any remedies that may be available to it at law or in equity.

20) DAMAGE TO PERSONS AND PROPERTY. Each Party shall be responsible for any damage, including environmental damage, to any persons and property, including Project ROW, other CDOT property, Owner Property, adjacent property, utilities, adjacent structures, and other third person real or personal property, that is caused by its or its Contractor's activities associated with the Project or any Relocation. The Parties shall require their Contractors, employees and agents to exercise due precaution and care to avoid causing such damage and the occurrence of any such damage shall immediately be repaired at the expense of the Party that caused the damage to the reasonable satisfaction of the party injured, unless otherwise agreed by the party injured. The Parties shall notify one another of any such damage and any claims filed against either Party arising out of such damage.

21) INSURANCE.

a) CDOT shall require its Project Contractor to obtain Commercial General Liability (Bodily Injury and Property Damage) insurance with limits of liability of not less than $1,000,000 per occurrence and aggregate; Workers Compensation as required by statute; Employer's Liability with limits of not less than $500,000; Automobile Liability insurance covering owned, non-owned and hired automobiles in an amount not less than $2,000,000; and an excess or Umbrella policy with limits of not less than $5,000,000 each occurrence. CDOT shall also require its Project Contractor to obtain coverage for Builder's Risk, and, if necessary, Railroad Protective Liability. CDOT shall also require its Project Contractor to obtain Pollution Liability coverage with a combined single limit and annual aggregate of not less than $1,000,000 and Professional Liability coverage with limits of liability not less than $1,000,000 per occurrence and aggregate. CDOT is investigating whether to include this Project in an Owner's Controlled Insurance Policy which will enroll the Project Contractor and Subcontractors on the Project in an Owner sponsored insurance program and may include Workers Compensation, Commercial General and Excess Liability Insurance, Builders Risk, and such other coverage as the CDOT may in writing specifically include in the OCIP. If an OCIP is used on this project, insurance limits will meet or exceed those outlined above.

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b) By Owner.

i) Whenever Owner is the Constructing Party and it (or its Contractor) will be present on the Project Site, or on any CDOT property, and whether or not a Work Order has been executed, Owner shall maintain (and/or require any Contractors performing activities hereunder to maintain): (a) Commercial General Liability (Bodily Injury and Property Damage) insurance with limits of liability of not less than $1,000,000 per occurrence and aggregate, including the following coverages : i) Contractual Liability to cover liability assumed under this URA; ii) Personal Injury with the "employee" and "contractual" exclusions deleted, and iii) Product and Completed Operations Liability Insurance; (b) automobile liability insurance covering owned, non-owned and hired automobiles in an amount not less than $1,000,000; and (c) Workers' Compensation insurance as required by law. Owner shall cause CDOT, its governing body, and their respective officers, employees and authorized agents to be named as additional insured as respects their interest under this agreement on the above general liability insurance.

ii) Whenever Owner is the Designing Party of a Relocation to be constructed in or on the Project Site, Owner shall also maintain (and/or cause any Contractors performing design of Relocation to maintain) professional liability coverage for design professionals with limits of liability not less than $1,000,000 per occurrence and aggregate.

iii) Where Owner or its Contractor is required to obtain insurance under (i) and (ii) of this provision, Owner shall cause a certificate (or certificates) evidencing the insurance required to be delivered to CDOT as a condition precedent to commencement of Utility Work by Owner and by each other party required to provide such insurance, and shall cause such insurance to be maintained in full force and effect until all such Utility Work is completed. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered to CDOT in accordance with policy provisions. If requested by CDOT from time to time, Owner shall provide CDOT with verification by a properly qualified representative of the insurer that Owner's and/or its Contractors' insurance complies with this paragraph and shall cause all other parties required to provide insurance pursuant to this paragraph to do the same. All contracts shall be required to have commercial insurance from a provider with a Best's A- rating.

iv) Without in any way limiting any applicable indemnification under Article 22, Owner shall have the right to comply with and satisfy any or all of its insurance obligations under this URA in lieu of actually obtaining the applicable insurance policy(ies) by notifying CDOT of Owner's election to be self-insured as to the applicable insurance coverage. The same coverages and limitations prescribed herein shall apply. If requested by CDOT at any time, Owner shall provide CDOT with a letter of such self-insurance in a form reasonably acceptable to CDOT.

22) INDEMNIFICATION.

Each Party shall require its Contractor(s) to defend, indemnify, save, and hold harmless the other Party, its directors, employees, Contractors, and agents against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the indemnifying Contractor, or its employees, agents, subcontractors, or assignees, and arising out of the terms of this URA or any Work Order executed pursuant hereto to the same extent and limits to which the indemnifying Contractor indemnifies the contracting Party. If Owner performs design or construction of Relocation with

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force account labor, Owner shall indemnify CDOT, its directors, employees, Contractors and agents to the same extent that Owner's Contractors indemnify Owner and CDOT.

23) TERMINATION.

a) CDOT may terminate any Utility Work required by a Work Order at any time that CDOT determines that the purposes of the distribution of funds under that Work Order would no longer be served by completion of the Utility Work. CDOT shall effect such termination by giving written notice of termination to Owner at least 20 calendar days before the effective date of such termination. CDOT will reimburse Owner in accordance with the terms of the URA for Utility Work duly performed and reasonable costs duly incurred prior to the date of termination and for which CDOT is the Responsible Party.

b) Subject to the preceding paragraph, all provisions of this URA that create rights or provide responsibilities for either Party after any termination of Utility Work shall survive such termination with respect to that Utility Work.

c) All data, studies, surveys, maps, models, photographs and reports or other materials relating to Utilities or property rights or interests or rights of Owner that are provided to CDOT by Owner solely for work performed under this URA shall be returned to Owner.

24) SETTLEMENT OF CLAIMS. Neither Owner nor CDOT shall be entitled to reimbursement for any Utility Work covered by this URA, including costs with respect to real property interests (either acquired or relinquished), except as set forth in the URA and in the Work Order. Consistent with applicable law, this URA, including all executed Work Orders, is intended as a full settlement of all claims regarding CDOT's and Owner's responsibility for the Cost of Relocations. Except for obligations undertaken by CDOT and Owner pursuant to this URA and consistent with applicable law, Owner and CDOT each waives, releases, and forever discharges the other Party, its members, officers, directors, agents, employees, successors and assigns from any and all claims for reimbursement, whether known or unknown, which either Party ever had or now has, regarding liability for the cost of the Utility Work necessitated by the Project and identified in the Work Order. This paragraph is intended to address only the issue of responsibility for the Cost of Relocation and does not extend to any tort claims that might arise out of the performance of the Utility Work.

25) NO LIENS. Each Party shall keep the Project Site and any other CDOT or Owner property free from any statutory or common law lien arising out of any Utility Work performed by it, materials furnished to it, or obligations incurred by it, its agents, or Contractors.

26) RETENTION OF RECORDS.

a) Each Party shall keep and maintain all books, papers, records, accounting records, files, reports and other material relating to the Utility Work it performs (or has performed) pursuant to this URA, including detailed records to support all invoices submitted by each Party, for a period of six (6) years after final payment. . Each Party and any other party or agency providing funding to CDOT (including their respective auditors) shall have access to and shall be entitled to audit all such records, or copies thereof, during normal business hours upon reasonable notice to the Party maintaining such records.

b) CDOT and Owner shall mutually agree upon any financial adjustments found necessary by any audit undertaken.

c) The Parties shall insert subparagraph (a) into any contracts entered for performance of Utility Work and shall also include in such contracts a clause requiring all Contractors to include subparagraph (a) in any subcontracts or purchase orders.

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27) TERM. This URA is effective as of the date of CDOT's signature below and will continue to govern the Project until acceptance by CDOT and Owner of all Utility Work shown on the Work Order(s) for the Project, or until final payment owing from either Party for the Project has been made, whichever is later. Certain provisions that provide rights or create responsibilities for either Party after expiration or termination of any Utility Work, must, by their terms, survive.

28) APPROPRIATIONS. CDOT's obligations under this URA or any renewal shall extend only to monies appropriated for the purpose of this URA by CDOT and encumbered for the purposes of this URA. CDOT does not by this URA irrevocably pledge present cash reserves for payments in future fiscal years, and this URA is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of CDOT.

29) LEGAL AUTHORITY. Each Party warrants that it possesses the legal authority to enter into this URA and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this URA and to be bound to its terms. The person(s) executing this URA on behalf of each Party warrant(s) that such person(s) have full authorization to execute this URA.

30) SEVERABILITY. If any provision or provisions of this URA shall be held to be invalid, illegal, unenforceable or in conflict with federal or Colorado state law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, unless the deletion of invalid, illegal or unenforceable provision or provisions would result in such a material change as to cause completion of the transactions contemplated herein to be unreasonable.

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In witness whereof, Owner and CDOT have executed this URA.

FOR OWNER:

By: _____

Name:
Title:
Date:

COLORADO DEPARTMENT OF TRANSPORTATION:

By: _____

By: Timothy J. Harris, Chief Engineer
Date:

Approved as to legal form for Owner (if necessary):

By: _____

Name:
Title:

Approved as to legal form for CDOT:

By: _____

Name:
Title:

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EXHIBIT A

NO-CONFLICT CLOSE-OUT FORM

This No-Conflict Close-Out Form ("No-Conflict Form") is executed by the Utility Owner and the CDOT Project Contractor in connection with the US 6 Bridges, Knox Ct. to BNSF Project Utility Relocation Agreement ("URA") entered into by the Utility Owner and CDOT. Unless otherwise defined herein, all initially capitalized terms and conditions shall have the meaning prescribed to them in the URA.

A fully-executed No-Conflict Form indicates the Parties' concurrence that, as of the Project plans current at the date of Utility Owner's execution hereof, no Relocation is required for Utility Owner's Utility referenced herein. Utility Owner and the CDOT Project Contractor acknowledge that future modifications to the Project may require Relocation of the referenced Utility in accordance with the URA. Two originals shall be executed and a copy shall be forwarded to CDOT by the CDOT Project Contractor.

Utility Owner	
Utility Identification No.:	
Location	
Comments (attach pages as necessary)	

By: _____ Date: _____
Name:
Title:

By: _____ Date: _____
Name:
Title:

If this form is not signed by the Utility Owner, the Utility Owner shall state below its basis for disagreement with the No-Conflict designation for this Utility:

_____
_____
_____
_____
_____ (attach pages as necessary)

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EXHIBIT B

FORM OF UTILITY WORK ORDER

Utility Owner: _____

Utility ID No.: _____

Work Order No.: _____ Work Order Revision No.: _____

Work Breakdown Structure No.: _____

LOCATION:

DESCRIPTION:

OPERATING RIGHTS:

DESIGN ☐ No Design Required

Performing Party	☐ Contractor	☐ Owner
Responsible Party	☐ Contractor	☐ Owner
Contractor pays Owner	Lump Sum: _____	Actual Cost Not to Exceed: _____
Owner pays Contractor	Lump Sum: _____	Actual Cost Not to Exceed: _____
Comments		

CONSTRUCTION ☐ No Construction Required

Performing Party	☐ Contractor	☐ Owner
Responsible Party	☐ Contractor	☐ Owner
Contractor pays Owner	Lump Sum: _____	Actual Cost Not to Exceed: _____
Owner pays Contractor	Lump Sum: _____	Actual Cost Not to Exceed: _____
Comments		

CONSTRUCTION INSPECTION ☐ No Construction Inspection Required

Performing Party	☐ Contractor	☐ Owner:
Responsible Party	☐ Contractor	☐ Owner:
Contractor pays Owner	Lump Sum: _____	Actual Cost Not to Exceed: _____
Owner pays Contractor	Lump Sum: _____	Actual Cost Not to Exceed: _____
Comments		

PROPERTY ACQUISITION ☐ No Property Acquisition Required

Performing Party	☐ Contractor	☐ Owner:
Responsible Party	☐ Contractor	☐ Owner:
Contractor pays Owner	Lump Sum: _____	Actual Cost Not to Exceed: _____
Owner pays Contractor	Lump Sum: _____	Actual Cost Not to Exceed: _____
Comments		

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SCHEDULE (THIS WORK ORDER ONLY)

Design	**Construction**
Start Date:	Start Date:
Completion Date:	Completion Date:
Comments:	

CHANGE ORDER

If this section is signed by the CDOT representative, then this Work Order will function as a Change Order.

CDOT Representative Date

WORK ORDER TERMS AND CONDITIONS

SCOPE OF WORK ORDER. This Work Order is entered into by and among Utility Owner and CDOT, and, where applicable, the CDOT Project Contractor in order to implement in part the URA identified herein, as the same may be amended from time to time, and which is incorporated herein by this reference. All work undertaken pursuant to this Work Order shall be performed in accordance with the requirements of the URA, which shall govern to the extent of any conflict between its terms and the terms of this Work Order. Relocation Standards specifically identified in the URA are incorporated herein by this reference. Unless otherwise defined herein, all initially capitalized terms and conditions shall have the meaning prescribed to them in the URA.

WORK ORDER ATTACHMENTS. This Work Order and any attachments hereto contain information specific to the Relocation to be performed hereunder. Attached and/or referenced Relocation Standards are incorporated herein by this reference and shall be considered a part of this Work Order. This Work Order governs only the Utility Work specifically identified herein and shall be conclusive as to all matters represented herein.

ORDER OF EXECUTION. This Work Order shall be executed first by Utility Owner, then by the CDOT Project Contractor (if applicable) and finally by CDOT.

IN WITNESS WHEREOF, CDOT, the Utility Owner, and where applicable, the CDOT Project Contractor have executed this Work Order, which shall be effective as of the date of the CDOT's signature.

Utility Owner: _____

By: _____

Print Name: _____

Title: _____

Date: _____

CDOT Project Contractor: _____

By: _____

Print Name: _____

Title: _____

Date: _____

CDOT: _____

By: _____

Print Name: _____

Title: _____

Date: _____

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EXHIBIT B

FORM OF UTILITY WORK ORDER (cont.)

Utility Identification No.:

SECTION A SCOPE

SECTION B REQUIRED PERMITS

Permit Type	Permit Responsibility

SECTION C LIST OF ATTACHMENTS

- ☐ Owner Design Sheet _____
- ☐ Project Design Sheet _____
- ☐ Cost Estimate _____
- ☐ Property Rights _____
- ☐ Other: _____

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EXHIBIT C

FORM OF DESIGN OF RELOCATION ACCEPTANCE LETTER

This DESIGN OF RELOCATION ACCEPTANCE LETTER ("DRAL") is executed by the non-Designing Party in connection with the US 6 Bridges, Knox Ct. to BNSF Utility Relocation Agreement (URA), entered into by the Utility Owner and CDOT. Execution of this DRAL indicates the non-Designing Party's acceptance and approval of the design of the Relocation, as attached to this DRAL, performed and completed by the Designing Party. Unless otherwise defined herein, all initially capitalized terms and conditions shall have the meaning prescribed to them in the URA. Two originals shall be executed and a copy shall be forwarded to CDOT by the CDOT Project Contractor

Utility Owner: _____

Utility Identification No.: _____

Work Order No.: _____ Work Order Date: _____

Work Order Rev. No.: _____ Rev. Date: _____

Designing Party: _____

Now, therefore, the non-Designing Party executes this DRAL to indicate that it has reviewed the design of the Relocation completed by the Designing Party and has found the design of the Relocation to have been designed in accordance with the non-Designing Party's Relocation Standards duly provided to the Designing Party:

Non-Designing Party

By: _____

Name: _____

Title: _____

Date: _____

☐ The non-Designing Party declines execution of this DRAL at this time for the following reasons:

_____

_____

_____ (attach pages as necessary)

☐ The Constructing Party may proceed with construction of the Relocation on the Project Site.

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EXHIBIT D

FORM OF CONSTRUCTION OF RELOCATION ACCEPTANCE LETTER

This CONSTRUCTION OF RELOCATION ACCEPTANCE LETTER ("CRAL") is executed by the non-Constructing Party in connection with the US 6 Bridges, Knox Ct. to BNSF Utility Relocation Agreement (URA) entered into by the Utility Owner and CDOT. Execution of this CRAL indicates the non-Constructing Party's inspection and acceptance of the construction of the Relocation performed and completed by the Constructing Party. Unless otherwise defined herein, all initially capitalized terms and conditions shall have the meaning prescribed to them in the URA. Two originals shall be executed and a copy shall be forwarded to CDOT by the CDOT Project Contractor

The construction of the Relocation inspected and accepted by execution hereof is described below:

Utility Owner: _____

Utility Identification No.: _____

Work Order No.: _____ Work Order Date: _____

Work Order Rev. No.: _____ Rev. Date: _____

Constructing Party: _____

Now, therefore, the non-Constructing Party executes this CRAL to indicate that it has inspected the construction of the Relocation completed by the Constructing Party and has found the construction of the Relocation has been performed in accordance with the Relocation Plans:

NON-CONSTRUCTING PARTY

By: _____

Name: _____.

Title: _____.

Date: _____

☐ The non-Constructing Party declines execution of this CRAL at this time for the following reasons:

_____

_____

_____ (attach pages as necessary)

DRAFT