

MEMORANDUM OF UNDERSTANDING
Between
Colorado Department of Personnel and Administration
And
U.S. Department of Energy
And
Jefferson County, Colorado
And
18th Street Development LLC

This MEMORANDUM OF UNDERSTANDING (“MOU”) is hereby made and entered into by and among the State of Colorado, for the use and benefit of the Colorado Department of Personnel & Administration (“DPA”), the U.S. Department of Energy (“DOE”), Jefferson County, Colorado (“County”) and 18th Street Development LLC, or its affiliated assignee (“NexCore”); hereinafter individually referred to as a “Party” and collectively as the “Parties.”

WHEREAS: DPA selected 18th Street Development LLC, an affiliate of NexCore Group LLC, as the master developer and owner of the Glo Energy Park building (“Glo Park”). Glo Park will be developed on a 9.47-acre site that the State owns in Golden, Colorado, directly adjacent to the U.S. National Renewable Energy Laboratory (“NREL”) South Table Mountain campus.

WHEREAS: NexCore’s property interest in the land is granted via a long-term ground lease from the State. NexCore will own the 310,000 square foot Glo Park building that is designed to be a best-in-class, generationally unique, renewable energy research facility. The Glo Park campus is where industry, government, and academia will gather to lead the global transition towards clean, renewable, equitable, and sustainable energy solutions.

WHEREAS: A new public roadway needs to be constructed to connect Denver West Parkway to Research Road to provide access to Glo Park.

WHEREAS: Alternative locations for the roadway were considered, and the proposed access to Glo Park is via the proposed roadway, depicted in Exhibit A attached hereto, which will require an easement from DOE and also require easements from the County and the State. The County will maintain the roadway after it is constructed and dedicated to the County. The financing transaction for Glo Park and the roadway is scheduled to close in November of 2024, at which time the proposed easements for the roadway will be recorded.

THEREFORE: The Parties hereby enter this MOU in order to proceed with negotiation of the prospective easements (together with such other ancillary documentation as may be required), which shall include the following terms and conditions:

1. OBJECTIVE:

- a. The purpose of this MOU is to identify the respective actions and approvals that will be necessary to obtain the necessary easements, permits, exemptions, financing, and contractors to complete the public roadway.

2. ACTIONS AND APPROVALS:

a. DPA

- i. Grant of easement for roadway on State property,
- ii. Assist in the pursuit of funds for roadway design and construction,
- iii. The dedication of the roadway easements are subject to approval of the Location and Extent application from the Jefferson County Planning Commission.

b. DOE

- i. Approve the conceptual plan for the alignment of the roadway, to include a traffic study, to mitigate impacts on the federal property,
- ii. Approve the legal description of the easement,
- iii. Conduct the NEPA process in connection with the request of the easement for the roadway on federal property, and
- iv. Grant of easement for roadway on federal property, subject to:
 - 1. the outcome of NEPA review process,
 - 2. DOE—or DOE’s agent—agreement with the engineering-design of the road, utilities, stormwater management features, security features, and other improvements across federal property, as well as any other changes to federal property that result from this project or the terms of this easement,
 - 3. DOE agreement with a plan for road maintenance, snow removal, and striping activities, and
 - 4. DOE agreement to any stormwater management plan.
- v. The dedication of the roadway easements are subject to approval of the Location and Extent application from the Jefferson County Planning Commission.

c. County

- i. Grant of easement or right-of-way for roadway on Open Space property,
- ii. Grant of ancillary easement for use by Glo Park of the parking area planned for Open Space property,

- iii. Grant of easement in Open Space property for stormwater outflow and detention to serve roadway and Open Space parking (as necessary based on final engineering),
 - iv. The dedication of the roadway easements are subject to approval of the Location and Extent application from the Jefferson County Planning Commission.
- d. NexCore
- i. Direct the civil engineering firm and other consultants to design the roadway and related improvements according to the County Roadway Design and Construction Manual and all other applicable County permits, standards and regulations,
 - ii. Engage consultants to prepare a traffic impact analysis per County guidelines, and a cultural review report for the State Historical Preservation Office in connection with proposed roadway and submit information to DOE for NEPA process,
 - iii. Direct consultants to prepare easement documents, including legal descriptions and surveys,
 - iv. Submit roadway construction permits to the County,
 - v. Seek funding sources for the design and construction of the roadway and related improvements,
 - vi. Engage contractor to construct roadway and related improvements per plans and specifications.

3. **TERM.** This MOU is executed as of the date of the last signature and is effective for _____ year(s), after which it may be extended by the mutual consent of the Parties.

4. **TERMINATION.** Any Party may, in writing, terminate this MOU in whole, or in part, at any time before the date of expiration with ninety (90) days' prior notice, in writing, to each of the other Parties.

5. **PRINCIPAL CONTACTS.** The individuals listed below are authorized by the designating Party to act in its respective areas for matters related to this MOU.

- a. Organization: State of Colorado, Department of Personnel & Administration
Name: Tobin Follenweider
Title: Deputy Executive Director
Address: 1525 Sherman St., Denver, CO 80203
Email: tobin.follenweider@state.co.us
- b. Organization: U.S. Department of Energy
Name: Marlys Kinsey

Title: Golden Field Office Director (acting)
Address: 15013 Denver West Parkway, Golden, Colorado 80401
Email: marlys.kinsey@ee.doe.gov

- c. Organization: Jefferson County
Title: County Manager
Address: 100 Jefferson County Parkway, Suite 5100
Golden, CO 80419
Email: countymanager@co.jefferson.co.us

with a copy to:

Jefferson County Attorney
100 Jefferson County Parkway Suite 5500
Golden, Colorado 80419
Email: CAOContracts@jeffco.us

- d. Organization: 18th Street Development LLC
Name: Greg Hundley
Title: Executive Vice President and General Counsel
Address: 1550 Market Street, Suite 200 Denver, CO 80202
Email: greg.hundley@nexcogroup.com

6. NOTICE. Any notices required under this MOU shall be in writing and shall be delivered in person, mailed, or transmitted electronically by e-mail or fax to the designated contact for a Party.
7. NONBINDING AGREEMENT. This MOU is a nonbinding agreement and creates no legally binding obligation between the Parties enforceable by law or equity. The Parties will manage their respective resources and activities in a manner that is coordinated and mutually beneficial to meet the purpose(s) of this MOU. This MOU does not bind any Party to enter into any real estate transaction with another party.
8. COLORADO OPEN RECORDS ACT (CORA). CORA means the Colorado Open Records Act, §24-72-200.1, et seq., C.R.S. To the extent not prohibited by federal law, this MOU is subject to public release through CORA.
9. FREEDOM OF INFORMATION ACT (FOIA). This MOU is subject to 5 U.S.C. § 552(b) and Federal Implementing Regulations concerning FOIA.

10. **MODIFICATIONS.** The terms of this MOU may be amended by mutual consent of the Parties, by the execution of a written modification signed and dated by all properly authorized signatories.

11. **DIGITAL SIGNATURES.** If any signatory signs this MOU using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this MOU by reference.

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DRAFT

This memorandum of understanding has been reviewed and found acceptable by the Parties. Each person signing this MOU represents and warrants that the signer is duly authorized to execute this MOU.

State of Colorado
Department of Personnel & Administration

U.S. Department of Energy

Signature

Signature

Name

Name

Title

Title

Date

Date

JEFFERSON COUNTY

18TH STREET DEVELOPMENT LLC

Leslie Dahlkemper, Chairman
Board of County Commissioners

Signature

Name

Title

Date

Date

APPROVED AS TO FORM

Anthony C. Chambers
Assistant County Attorney

Exhibit A
Proposed Roadway

[TO BE INSERTED]

DRAFT