

*[Handwritten initials]*

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("Agreement"), made this 15<sup>th</sup> day of March, 1999, by and between The Southern Ute, The Ute Mountain Ute, The Apache of Oklahoma, The Kiowa of Oklahoma, The Comanche of Oklahoma, The Cheyenne and Arapaho Tribes of Oklahoma, The Pawnee of Oklahoma, The Eastern Shoshone, The Northern Arapaho, The Northern Cheyenne, The Oglala Sioux, and The Rosebud Sioux (the "Tribes"), the Medicine Wheel Coalition for Sacred Sites (also included in the term "Tribes"), and the City of Boulder ("City"),

WITNESSETH:

WHEREAS, the City and the Tribes have entered into a Programmatic Agreement concerning the NOAA/NIST site at 325 South Broadway in Boulder, Colorado; and

WHEREAS, the Tribes and the City seek by this Agreement to obtain approval for a utility easement on the NOAA/NIST site, as set forth in Exhibit A.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

- (1) The City requests a utility easement on the tribal protected area on the NOAA/NIST site parallel to Broadway, as shown in Exhibit A. This may require an amendment to the Tribal Easement and the Programmatic Agreement for the site. The Tribes approve such request, and this Agreement constitutes such amendment.
- (2) The City requests the support of the Tribes in obtaining this easement from the federal government. The Tribes agree to such support.
- (3) The City recognizes the Tribes' request for the presence of a tribal monitor during the construction's activities on this utility easement, in accordance with procedures similar to those used for the NOAA Building construction, attached as Exhibit B. The City agrees to abide by such procedures, subject only to agreement by the appropriate authority within the federal government.
- (4) The Tribes recognize the concern of the City regarding fire ban ordinances that affect cultural use within the Protected Areas at the NIST site.
- (5) The City agrees to provide reasonable fire protection services for any authorized Tribal cultural use on the Protected Area at the NOAA/NIST site during a fire ban. Such fire protection may include fire extinguishers, wildfire suppression apparatus or other preventive measures.

(6) Initially, this Agreement shall be binding on the Tribes which execute it, and additional Tribes may agree in any form to its provisions.

AGREED, as of the date first above written.

THE TRIBES

The Southern Ute

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The Ute Mountain Ute

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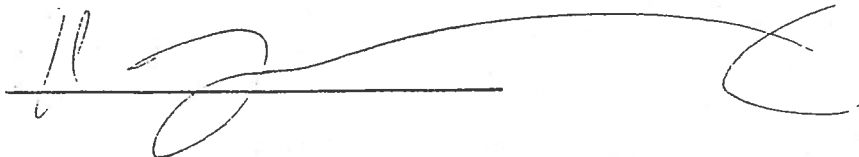
The Apache of Oklahoma

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The Kiowa of Oklahoma

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The Comanche of Oklahoma



A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a long, sweeping horizontal line that ends in a large, circular flourish.

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The Cheyenne and Arapaho Tribes of Oklahoma

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(6) Initially, this Agreement shall be binding on the Tribes which execute it, and additional Tribes may agree in any form to its provisions.

AGREED, as of the date first above written.

THE TRIBES

The Southern Ute

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The Ute Mountain Ute

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The Apache of Oklahoma

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The Kiowa of Oklahoma

*Greg Rainey*

The Comanche of Oklahoma

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The Cheyenne and Arapaho Tribes of Oklahoma

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The Pawnee of Oklahoma

William A. Howells, Head Chief - Northern Council

The Eastern Shoshone

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The Northern Arapaho

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The Northern Cheyenne

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The Oglala Sioux

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The Rosebud Sioux

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THE MEDICINE WHEEL COALITION FOR SACRED SITES

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The Pawnee of Oklahoma

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The Eastern Shoshone

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The Northern Arapaho

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The Northern Cheyenne

*Walter R. Ruppberg*

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The Oglala Sioux

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The Rosebud Sioux

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THE MEDICINE WHEEL COALITION FOR SACRED SITES

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The Pawnee of Oklahoma

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The Eastern Shoshone

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The Northern Arapaho

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The Northern Cheyenne

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The Oglala Sioux

*Aslan Yellow Bird Steele*

The Rosebud Sioux

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THE MEDICINE WHEEL COALITION FOR SACRED SITES

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The Pawnee of Oklahoma

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The Eastern Shoshone

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The Northern Arapaho

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The Northern Cheyenne

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The Oglala Sioux

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The Rosebud Sioux

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THE MEDICINE WHEEL COALITION FOR SACRED SITES



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CITY OF BOULDER, COLORADO

By: Christine Dornish / Acting  
City Manager

Attest:

Laura Ostom  
Director of Finance and Record  
Ex-Officio City Clerk

Approved as to form:

[Signature]  
City Attorney



# EXHIBIT A

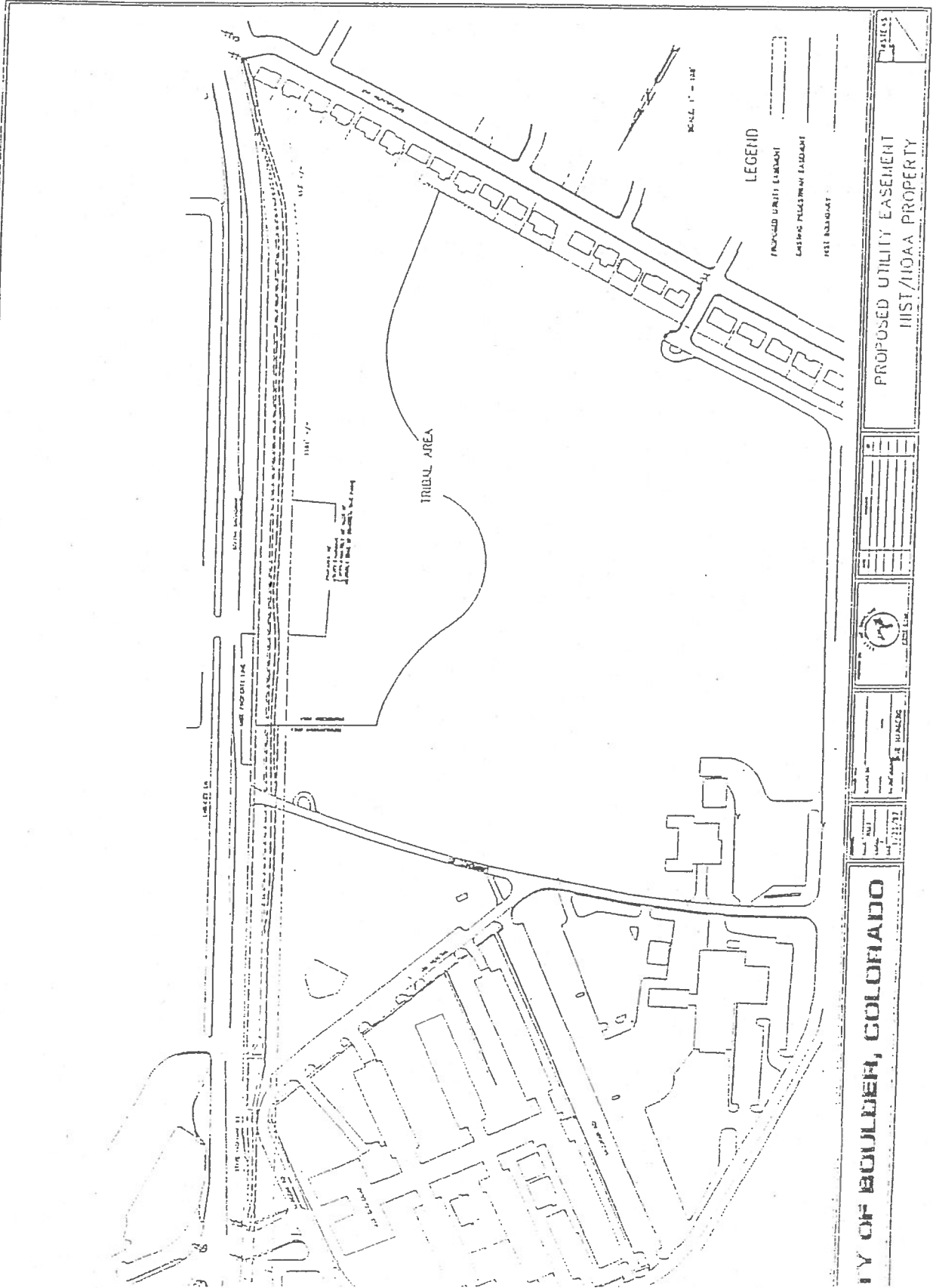
## LEGAL DESCRIPTION

Of a parcel of land located in sections 5 and 6, T. 1 S., R. 70 W., 6TH P.M., City and County of Boulder, State of Colorado, more particularly described as follows:

The easterly 75 feet of the NIST/NOAA property as described and shown on the William J. Stengel land survey plat filed at the Boulder County Land Use Department as No. LS - 93 - 122;

Said parcel is parallel to and adjoining the westerly right-of-way of Colorado State Highway No. 93 (S. Broadway).

Total area of said tract is 4.52 acres or 196,978 square feet.



SCALE 1" = 100'

LEGEND

- PROPOSED UTILITY EASEMENT
- EXISTING PEDESTRIAN EASEMENT
- WEST ADJACENT

PROPOSED UTILITY EASEMENT  
 HIST/NOAA PROPERTY



STATE OF COLORADO  
 PROFESSIONAL ENGINEER  
 No. 123456  
 EXPIRES 12/31/2025  
 JOHN D. SMITH  
 1234 MAIN ST.  
 BOULDER, CO 80501

CITY OF BOULDER, COLORADO

Exhibit B

Cultural Resources Monitor  
Statement of Work and Qualifications

Project Description:

Purpose: Implement a Tribal Monitoring Program for Archeological Oversight of Cultural Resources during Ground Disturbing Construction Activities

Project: City of Boulder/Public Service Company of Colorado: South Broadway Electric Line Undergrounding

Agency Contact:

Construction Manager:

Other:

Monitor Program: A tribal monitor will be present during ground disturbing activities on the "Protected Area", in this instance for the ground disturbing activities for underground utility lines parallel to Broadway. "Construction" includes ground breaking, lot over grading and machine excavation, up to a depth of 5 feet. The purpose of monitoring is to ensure the safeguarding of any archeological resources or culturally sensitive items which might be discovered in the construction process.

The schedule of ground disturbing activities will be set by the City of Boulder and Public Service Company of Colorado. The schedule will be coordinated with the tribal monitor. The schedule of times and number of hours of the monitoring activity will be established as soon as practical. The monitor will be required to attend all meetings, especially to establish working requirements and the start of work.

The following laws and regulations may apply to this federal site in the event that any archeological resources or cultural sensitivities are discovered:

National Historic Preservation Act of 1966, as amended  
National Environmental Policy Act of 1969, as amended  
Archeological and Historic Preservation Act of 1974, as amended  
Archeological Resources Protection Act of 1979  
Native American Graves Protection and Repatriation Act of 1990  
American Indian Religious Freedom Act of 1978

Religious Freedom Restoration Act 199(3)?  
Antiquities Act of 1906, as amended  
The Executive Order on Sacred Sites 1996

In the event that archeological resources or culturally sensitive items are discovered during ground disturbing activities, procedures must be followed to conserve the resources. In this event, ground disturbing activities shall be halted until action can be taken that conserves the resources.

#### POSITION DESCRIPTION - Cultural Resource Monitor

I. Job Description and Duties

- A. The monitor must be present at the agreed upon days and hours during ground disturbing activities. These activities include: ground breaking, lot over grading and machine excavation, up to a depth of 5 feet. The monitor will also be required to attend any and all meetings prior to the start of and during ground disturbing activities.
- B. The monitor will walk the ground disturbing site and observe all ground disturbing activities as they occur. The monitor will be looking for, but not limited to the following types of items: artifacts, human remains, and items of cultural significance.

In the event that any items of cultural significance are found, the tribal monitor and the agency involved shall immediately notify the signatory tribal offices and work together to ensure that all appropriate procedures and documentation are followed as directed by applicable federal laws and regulations.

Agencies will work in partnership with the monitor and the signatory tribes to ensure proper processing and disposition of any discovered resources.

- C. The monitor shall coordinate all on-site activities with the construction contractor.
- D. The monitor shall submit a daily record and report of activities to the construction contractor.
- E. The monitor shall submit a weekly time sheet.
- F. The monitor shall submit a final report at the end of ground disturbing activities to the City of Boulder and to the site manager of the National Institute of Standards and

Technology facility on the site ("NIST"), with a copy to the signatory tribes, summarizing the monitoring program and findings. This report is due fourteen days following the completion of monitoring activities. If significant portions of the work are separated and do not follow consecutively, a report will be due fourteen days after each separate portion of work is completed.

2. Security Procedures: Prior to arriving at the job site, if required by NIST, the monitor shall present and obtain site manager approval of:
  - a. Two copies of a fingerprint card, which can be obtained from GSA or local police authorities.
  - b. A completed security clearance form.
  - c. A clearance from the State Police stating whether or not the individual has a criminal record in his state of residence.
3. Safety: The monitor shall comply with both the safety requirements of the contractor and the NIST safety program.

#### QUALIFICATIONS - CULTURAL RESOURCE MONITOR

1. Background Experience: The tribal monitor must be an enrolled tribal member or a designated representative of one of the signatory tribes and meet the requirements of either a) or b) as described below.
  - a) The monitor shall be chosen by tribal traditional elders or appointed by the tribes' cultural resource committees; the monitor should be a person knowledgeable in traditional ways and ceremonial practices; this appointed person shall submit to the City and NIST a letter of authorization from a majority of the signatory tribes' tribal elders or cultural resources committees which indicates that he or she shall act as a monitor in this endeavor.
  - b) The monitor shall be a fourth year university student in good standing, pursuing either a degree in Cultural Resource Management, or Anthropology and Archeology. This person should have received appropriate training and participated in official tribal cultural resource management programs. This person shall submit to the City and NIST a letter of authorization from a majority of the tribes' tribal

Hourly Payment @ \$10/hour or \$20/hour with no per diem and miscellaneous expenses, at the election of the City

Lodging @ \$93/night

Per Diem @ \$34/day

Miscellaneous Expense

Phone - \$3/day

Daily mileage to work site @ \$0.31/mile

Round Trip Mileage (to & from home) @ \$0.31/mile