

RESOLUTION 94-168
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY OF FORT COLLINS AND THE
THE STATE DEPARTMENT OF TRANSPORTATION APPROVING
THE LAW ENFORCEMENT ASSISTANCE FUND (LEAF)
CONTRACT L-14-95

WHEREAS, the City of Fort Collins, on behalf of Fort Collins Police Services, has submitted an application to the Colorado Department of Transportation, Office of Transportation Safety, for funding the Law Enforcement Assistance Fund (LEAF) project for the prevention of drunken driving and the enforcement of laws pertaining to the driving under the influence of alcohol or other drugs, pursuant to Sections 43-4-401 through 404, C.R.S., and to LEAF Rules at 2 CCR 602.1; and

WHEREAS, the State has approved the application as prepared for LEAF Contract L-14-95, which requires the City of Fort Collins to provide certain matching funds for this project; and

WHEREAS, the City of Fort Collins has authority and responsibility to fund Fort Collins Police Services and sign contracts on behalf of Fort Collins Police Services; and

WHEREAS, LEAF Contract L-14-95, which requires the local agency to provide matching funds in the amount of \$67,676, has been presented to the City of Fort Collins for approval; and

WHEREAS, a resolution by the Council of the City of Fort Collins formally approving the LEAF Contract, obligating the required local matching funds, and authorizing the proper signature to be affixed to the Contract indicating such approval, is required by the State of Colorado; and

WHEREAS, Section 16 of Article II of the Fort Collins City Charter authorizes the Council to enter into agreements with other governmental entities to enter into cooperative or joint activities with such entities.

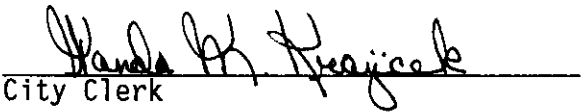
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that it hereby approves the terms, conditions and obligations of LEAF Contract L-14-95, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, obligates Sixty-seven Thousand Six Hundred Seventy-six Dollars (\$67,676) from the General Fund for Fort Collins Police Services to satisfy the local funding requirements of the Contract, and hereby authorizes the Mayor to sign the LEAF Contract on behalf of the City of Fort Collins.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 18th day of October, A.D. 1994.



Mayor

ATTEST:



City Clerk

EXHIBIT A

DEPARTMENT OR AGENCY NUMBER: L-14-95
CONTRACT ROUTING NUMBER: _____

CONTRACT

THIS CONTRACT, Made this _____ day of _____, 199__, by and between the State of Colorado, for the use and benefit of the Colorado Department of Transportation, Office of Transportation Safety, 4201 East Arkansas Avenue, Denver, Colorado 80222 (hereinafter referred to as "the State") and the City of Fort Collins, for the Fort Collins Police Services, 300 Laporte Avenue, Fort Collins, CO. 80521 (hereinafter referred to as "the Contractor").

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 403, Appropriation Code 304, Contract Encumbrance Number 9584, and GBL Number _____; and

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, the Legislature has created the Law Enforcement Assistance Fund (LEAF) for the prevention of drunken driving (43-4-401 through 43-4-404, CRS, replacement edition); and

WHEREAS, LEAF has been established to provide funds to aid in the prevention of drunken driving and the enforcement of laws pertaining to driving under the influence of alcohol and drugs; and

WHEREAS, pursuant to §43-4-404, C.R.S., the State is authorized to allocate LEAF funds by contract to local authorities (cities and counties) to benefit the health and safety of persons in Colorado by the implementation of local programs developed by the local authorities for drunken driving prevention and law enforcement improvements; and

WHEREAS, the Contractor has submitted a LEAF project funding Application, which has been approved by the State; and

WHEREAS, the Contractor has established a qualified program, consistent with current State Highway Safety rules at 2CCR 602-1, to coordinate efforts to prevent drunken driving and to enforce laws pertaining to driving under the influence of alcohol and drugs within its jurisdiction; and

WHEREAS, the Contractor has available the technical ability to properly perform the project as described in the Approved Application and to address the LEAF objectives of the Legislature; and

WHEREAS, this Contract is executed by the State under authority of 29-1-203, 43-1-106, 43-4-402 and 403, and 24-42-103 CRS, and by the Contractor under sections 29-1-203 and 30-11-101, 31-15-101 CRS or home rule charter, as applicable, and the attached resolution.

NOW THEREFORE, it is hereby agreed as follows:

1. The Contractor's Approved LEAF Application, the LEAF Contract Management Manual dated August 1, 1992 and LEAF Application Guidelines dated July, 1992, the State Highway Safety Rules at 2CCR 602-1, and Attachments A, B and C are incorporated herein by this reference as terms and conditions of this contract. The Contractor acknowledges that it has received copies of the LEAF Contract Management Manual, the Application Guidelines, and the State Highway Safety Rules. The Contractor shall comply with all terms and conditions of this Contract. In the event of a conflict between the terms of this Contract and the terms of the incorporated materials, the following priority shall be used to resolve such conflict:

- A. State Highway Safety Rules; then
- B: LEAF Contract Management Manual and Guidelines; then
- C. This Contract; then
- D. Attachments A, B, C, in that order; then
- E. Approved Application.

2. The Contractor shall carry out the program and shall perform the activities which are specifically described in the Approved Application and are generally described in Attachment A (collectively, "the project").

3. The Contractor shall submit quarterly reports to the State detailing the performance of this Contract according to the reporting criteria described in Attachment B.

4. Project Funding Provisions. The total budget amount authorized by this Contract for the actual costs of the project work is \$137,676, as described in Attachment C. The State and the Contractor shall participate in the payment of this total budget amount, as provided herein.

A. State's maximum share (from LEAF)	\$70,000	(51%)
B. Contractor's share	\$67,676	(49%)
TOTAL AMOUNT	\$137,676	(100%)

The State shall use LEAF funds exclusively to pay for 51% of the actual costs incurred by the Contractor for the project work up to the State's maximum share amount of \$70,000 (51% of \$137,676). Provided, however, that the State's maximum share shall not exceed the amount of \$70,000 for any reason, including if the Contractor voluntarily pays more than the minimum match amount required of the Contractor under this contract, unless this contract is supplemented in writing to that effect prior to the incurring of any cost in excess of the total budget amount.

The Contractor shall provide a minimum match share of \$67,676 (49% of \$137,676), either in payment of actual costs incurred for the project work or in the performance of in-kind services on the project, which reimbursement be directly related to the enforcement of laws pertaining to driving under the influence of alcohol or other drugs.

It is anticipated that the Contractor may voluntarily provide either payment of actual costs or in-kind services exceeding its minimum match requirement in order to establish the project on a permanent basis, provided that it is expressly understood that any such voluntary payment or services shall not increase the State's maximum share under this contract.

In addition, if the Contractor fails to provide the total amount of its minimum match share the State's obligation to pay its percentage share shall be reduced in direct proportion to the extent of such failure, so that the State's obligation will be reduced \$51 for each \$49 (51%-49%) the Contractor fails to provide. Upon notice from the State, the Contractor shall repay the State any amount that was paid by the State and that a subsequent audit determines the Contractor exceeded the State's percentage of obligation under this contract.

If the Contractor incurs project costs which exceed the Attachment C budget amount without first obtaining an approval in that amount by written contract amendment, the Contractor shall be solely responsible for the payment of such excess costs.

The State share of the total budget amount will be provided solely from LEAF funds. Any obligation of the State under this Contract is contingent both upon LEAF funds being available for this Contract and upon the Contractor providing its minimum share.

The State will pay the Contractor for the State's share of actual costs incurred on a monthly or quarterly basis, subject to prior review and approval by the State of work performance and pursuant to payment procedures contained in the LEAF Contract Manual. The Contractor shall maintain an itemized accounting of all billings and other records to support all costs charged to the Contract and shall present same to the State upon request.

The obligation of the Contractor for all or any part of the payment obligations set out herein shall only extend to monies duly and lawfully appropriated for the purpose of this Contract by the Governing Body of the Contractor. The Contractor hereby represents and warrants that the monies to pay for the Contractor's obligations described herein have already been legally appropriated by the Governing Body for the purpose of this Contract.

5. The effective date of this contract shall be the date the Controller of the State of Colorado approves this contract, or such later date specified herein. The Contract shall begin January 1, 1995, and shall terminate on December 31, 1995.

6. The Contractor agrees that any subcontracts entered into by the Contractor under this Contract must meet all applicable State and Federal requirements and must be approved by the Office of Transportation Safety prior to execution by the Contractor.

7. a) Termination Due to Loss of Funding. The parties hereto expressly recognize that the Contractor is to be paid, reimbursed, or otherwise compensated solely with certain funds provided to the State for the purpose of contracting for the services provided for herein. Therefore, the Contractor expressly understands and agrees that all its rights, demands and claims to compensation arising under this Contract are contingent upon receipt of such funds by the State. In the event that such funds or any part thereof are not received by the State, the State or Contractor may immediately terminate this Contract.

b) Termination for Cause. If, through any cause, either party shall fail to fulfill in a timely and proper manner the obligations under this Contract, or if either party shall violate any of the covenants, agreements or stipulations of this Contract, the non-breaching party shall thereupon have the right to terminate this Contract for cause by giving written notice to the breaching party such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports of other material prepared by the Contractor under this Contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, the breaching party shall not be relieved of liability to the non-breaching party for any damages sustained by the non-breaching party by virtue of a breach of the Contract by the breaching party, and the State may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the State from the Contractor is determined, if the Contractor is a breaching party.

c) Termination for Convenience. Either party may terminate this Contract at any time that it determines that the purpose of the distribution of monies under the Contract would no longer be served by completion of the Project. Such party shall effect such termination by giving written notice of termination to the other party and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.

8. The Contractor shall adopt a resolution substantially in the form presented by the State, which approves this Contract, obligates the necessary local monies to pay for its share of costs or in-kind services and authorizes a signatory to execute this Contract. A copy of such resolution shall be attached to and made a part of this Contract.

9. The Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither the Contractor nor any agent or employee of the Contractor shall be deemed to be an agent or employee of the State. The Contractor shall pay, when due, all required employment taxes and compensation (and show proof of such insurance) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of the Contractor, its employees and agents.

10. The Special Provisions are attached hereto and hereby made a part hereof as terms and conditions of this contract.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing contract to be executed by their duly authorized officers the day and year first above written.

City of Fort Collins

**STATE OF COLORADO
ROY ROMER, GOVERNOR**

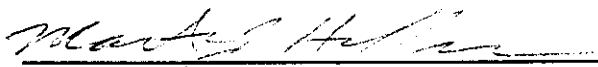
Contractor: _____
Position: **Mayor/Commissioner**

By _____
GUILLERMO V. VIDAL
Executive Director
Department of Transportation

Contractor: _____
Position: **Chief/Sheriff**

By _____
JOHN E. CONGER
Director
Office of Transportation Safety

APPROVED AS TO FORM:



City of Fort Collins
Attorney (Asst. City)

ATTEST

ATTEST

City of Fort Collins
Clerk

Chief Clerk
Department of Transportation

APPROVALS

CLIFFORD W. HALL
State Controller

GALE NORTON
Attorney General

By _____
GEORGE MCCULLAR, Controller
Department of Transportation

By _____
BARRY B. RYAN
Assistant Attorney General
Natural Resources Section

**COLORADO DEPARTMENT OF TRANSPORTATION
LEAF CONTRACT ATTACHMENT A**



LEAF OBJECTIVE PLAN

LEAF project # L-14-95	Responsible Agency Fort Collins Police Services
Contract period 1-1-95 through 12-31-95	Project Coordinator Sergeant Dennis Whitesell

LEAF objective:

L-14-95: To increase and improve the enforcement of the laws pertaining to alcohol and drug related traffic offenses by performing the activities described in the Approved Application and summarized below.

Activity #	Activity description
1	Provide two officers throughout the term of this contract to perform fulltime DUI enforcement activity within the City of Fort Collins as stated in the Approved Application.
2	Conduct at least two sobriety checkpoints or saturation patrols during 1995. This can be in cooperation with a nearby agency or solely by the Fort Collins Police Services.
3	Make all reasonable efforts to increase the DUI alcohol and drug related arrests within the City of Fort Collins by 25% from the 1994 level.

**COLORADO DEPARTMENT OF TRANSPORTATION
LEAF CONTRACT ATTACHMENT C**



LEAF project # **L-14-95 - Fort Collins Police Services**

REVENUES

Total	Source of funds	
	LEAF	Local
\$137,676	\$70,000	\$67,676

EXPENSES

Category	Total
Personal services	\$126,532
Operating expenses	\$11,144
Capital equipment	\$-0-
Travel expenses	\$-0-
TOTAL	\$137,676

SPECIAL PROVISIONS

CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

FUND AVAILABILITY

2. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

BOND REQUIREMENT

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public work for this State, the contractor shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to the State official who will sign the contract, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety conditioned upon the faithful performance of the contract and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provendor or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment in the prosecution of the work the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond is executed, delivered and filed, no claim in favor of the contractor arising under such contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with CRS 38-26-106.

INDEMNIFICATION

4. To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State, its employees 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 contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (CRS 24-34-402), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment or recruitment advertisements; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.

(d) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(e) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity because of race, creed, color, sex, national origin, or ancestry.

(f) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(g) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(h) The contractor will include the provisions of paragraphs (a) through (h) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation, with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

COLORADO LABOR PREFERENCE

6a. Provisions of CRS 8-17-101 & 102 for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

b. When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of Federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with Federal requirements (CRS 8-19-101 and 102)

GENERAL

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defence, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

9. The signatories aver that they are familiar with CRS 18-8-301, et. seq., (Bribery and Corrupt Influences) and CRS 18-8-401, et. seq., (Abuse of Public Office), and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has any personal or beneficial interest whatsoever in the service or property described herein: