

COLORADO'S POWER PATHWAY

DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT
Segment 5 - Colorado's Power Pathway

THIS DEVELOPMENT AGREEMENT (hereinafter "Agreement") is made this ____ day of _____, 2024 ("Effective Date"), by and between El Paso County, by and through the Board of County Commissioners of El Paso County, Colorado, a statutory county and political subdivision of the State of Colorado ("County") and Public Service Company of Colorado, a Colorado corporation conducting business as Xcel Energy, whose legal address is 1800 Larimer Street, Suite 400, Denver, Colorado 80202, (hereinafter "Company"). Both County and Company are sometimes referenced herein together as "Parties", and individually as "Party".

RECITALS

WHEREAS, the Company intends to construct, operate and maintain new transmission lines across El Paso County (the "Project"); and

WHEREAS, The Project falls within the scope of the County's authority under Guidelines and Regulations for Areas and Activities of State Interest of El Paso County, contained in Appendix B of the El Paso County Land Development Code ("1041 Regulations"). The Project specifically falls within the scope of and must obtain a 1041 Permit under Chapter 5, Site Selection and Construction of Major Facilities of a Public Utility, of the 1041 Regulations ("1041 Permit"); and

WHEREAS, the Company will apply for a 1041 permit for the Project that includes equipment and heavy vehicle use of El Paso County roads ("County Roads") and Appurtenances by the Company's agents, employees, affiliates, contractors, subcontractors, workforce and related service companies; and

WHEREAS, Company's use of County Roads pursuant to the 1041 Permit may create impacts to such County Roads, which require mitigation and repair; and

WHEREAS, the purpose of this Agreement is to provide for the identification of such County Roads the Company is authorized to use; the terms and conditions under which the Company is authorized to use the County Roads; and the required mitigation or repair of any impacts to the County Roads caused by the Company's use thereof;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above shall be incorporated by reference into this Agreement as if fully stated herein.
2. **General Project Description.** The Company proposes to construct and operate Colorado's Power Pathway ("Pathway") in eastern Colorado. Pathway is a \$1.7 billion investment proposed by Xcel Energy to improve the state's electric grid and enable future renewable energy development around the state. Pathway will ensure safe, reliable, and economical electric service to the public, boost the regional economy, and create jobs during its construction. Specific to the portions of Pathway located in the County ("Segment 5"), the Company will construct 45 miles of 345-kilovolt, double-

circuit transmission line along the proposed route identified in Exhibit A.

3. Scope of the Agreement.

- A. The Company has indicated that it intends to use approximately 121.5 miles of County Roads as haul routes for Segment 5, which are identified on Exhibit A as either a General Construction Haul Route – Paved, or a General Construction Haul Route – Gravel, and which are further defined in Section 4, below and generally referred to throughout as “General Construction Haul Routes”. The Company has indicated that it intends to use some General Construction Haul Routes to transport material and equipment, which may require a County Haul Permit for overweight loads, which are further defined in Section 4, below and generally referred to throughout as “Overweight Construction Haul Routes”.
- B. This Agreement defines the terms and conditions under which (a) the Company will be permitted to use County Roads as General Construction Haul Routes and Overweight Construction Haul Routes for purposes of construction of Segment 5; (b) how the Company will maintain, and mitigate and repair damage to, County Roads caused by the Company’s use thereof; and (c) how the Company will pay for the cost of repairing any damage related to or arising from the use of County Roads by the Company and any of its contractors or subcontractors (“Contractors”) for the Project, as identified in the Company’s application for its 1041 Permit.
- C. The Company has also indicated it intends to use portions of U.S. Highway 24 and CO Highway 94 located in the County (“State Highways”) as Heavy Material Delivery Routes, which are identified as such on Exhibit A, and are further defined in Section 4. The use, maintenance, and repair of the State Highways as Heavy Material Delivery Routes is not subject to this Agreement, except as provided for below:
 - 1. All State Highway laws and codes apply to Company’s use of State Highways for construction of Segment 5;
 - 2. All necessary State oversize/overweight permitting for the Company’s use of State Highways must be obtained by the Company;
 - 3. The County and Company shall confirm any existing access from State Highways to County Roads is open and sufficient to meet the needs of Company and its Contractors, including, without limitation the requirements for turning movements;
 - 4. Any existing access from State Highways to County Roads or new access to points not on existing County Roads, that require modification to meet needs of Company and its Contractors, will require State Highway Access Permitting.

4. Definitions.

- A. “Appurtenance” means and includes the following when within a public right-of-way: a ditch, culvert, or any type of wall, fence, guardrail, pavement marking, traffic control device, illumination device, mailbox or barrier adjacent to or in, along or on a County Road; or any

construction, obstruction, erection or any situation, arrangement or disposition of any earth work, rock, tree or other material or thing adjacent to or in, along or on a County Road that is not on the traveled portion of the road.

- B. "County Roads" means a public roadway under the direction, control and management of the County, including:
1. A developed road on which improvements such as grading or surfacing have been made for the purpose of public travel and access, including any Appurtenances, a bridge forming part of a public road and any structure incidental to a public road; and/or
 2. An undeveloped road or right of way under the County's jurisdiction.
- C. "General Construction Haul Route" means County Roads used by the Company or its Contractors to transport materials, equipment and/or labor from laydown yards located on private property to the Transmission Line Route.
- D. "Heavy Material Delivery Routes" means State-owned and/or maintained highways used by the Company or its Contractors to transport materials and/or equipment to laydown yards located on private property, for which an overweight permit may be required by the Colorado Department of Transportation.
- E. "Haul Route" means General Construction Haul Routes and Overweight Construction Haul Routes on County Roads which are subject to this Agreement, but not Heavy Material Delivery Routes.
- F. "Overweight Construction Haul Route" means County Roads that are General Construction Haul Routes, which require a County Haul Permit.
- G. "Preliminary Acceptance" means the County's conditional acceptance and approval of the Company's repair and restoration of Haul Routes following completion of Segment 5, after which time the Company will provide a two (2) year warranty period for any Road Damage identified by the County or Company that was a direct result of Segment 5 or the Company's use of the Haul Routes.
- H. "Road Damage" shall include, by way of example but not limitation, damage to a Haul Route such as the following:
1. Potholes or wheel-depressed areas after the roads have been maintained or graded.
 2. Damage to shoulders due to heavy vehicles running off the edge of the road.
 3. Damage to ditches due to heavy vehicles squeezing the ditches closed by running on the shoulders of the road.

4. Damage to culverts crushed by heavy hauling activities or being "plugged" by sediment from closed ditches.
 5. Damage to road surface causing the re-cycling of the surface for the purpose of proper roadway drainage.
 6. Damage to the existing base by heavy traffic.
 7. Appropriate topping the road with driving surface aggregate after the road has been recycled or re-graded to restore a proper road profile.
- I. "Transmission Line Route" means the final route of the new transmission lines contained in the Company's 1041 application as approved by the Board of County Commissioners and pursuant to final easement agreements for the transmission lines between the Company and private landowners.

5. Identification of Haul Routes.

- A. The Parties agree that construction of Segment 5 may impact County paved and unpaved roads based on the number of anticipated trips per day and the weight of the vehicles making such trips. Company has identified multiple Haul Routes, along County Roads to and from the Segment 5 site that are subject to this Agreement. The Haul Routes are depicted in Exhibit A, attached hereto, and described below:
1. General Construction Haul Routes occur along and adjacent to the Segment 5 alignment in El Paso County. These routes include many smaller roads including Ramah Road, Harrisville Road, Corona Road, Holtwood Road, Big Springs Road, Judge Orr Road, Rush Road, Shear Road, and Whittemore Road. These routes will be used to haul materials and equipment and for personnel traffic to individual work sites.
 2. Heavy Material Delivery Haul Routes in El Paso County are identified along I-25, US 24, and CO 94. These routes will be used to transport bulk equipment and materials to laydown yards.
- B. Load-posted bridges with the following required load ratings according to the 2022 CDOT Off-System Bridges inspection data along the County Roads include:
1. EPC 1240-03.55 Commerce Rd Bridge, 0.5 mi NW of Blasingame Rd – Large Timber Bridge – 8T/14T/14T and 9T for all SHVs
 2. EPC 0565-08.55 Blasingame Rd Bridge, 0.2 mi W of Commerce Rd – Timber Bridge – 21T/33T/34T and for SHVs – 21T (4 axles) and 23T (5+ axles) – This bridge is along a potential detour route for the Commerce Rd Bridge
 3. EPC 0929-09.52 Oil Well Rd, South of Alta Vista – Timber Bridge – 13T/20T/20T

All required County Haul Permits for overweight loads must be obtained before travel on these load-posted bridges.

6. Identification of Impacts to Haul Routes.

- A. Company shall prepare or cause to be prepared a pre-construction baseline inventory (“Baseline Inventory”) documenting the pre-construction condition for each Haul Route prior to commencing construction of Segment 5, one year after commencement of construction, and after Preliminary Acceptance of restoration of the County Roads. The Baseline Inventory shall be shared with the County within three (3) business days of completion.
- B. The initial Road Condition Survey shall include at minimum video and photographs documenting the condition of the Haul Routes.
- C. Once construction commences and until Preliminary Acceptance of restoration of the Haul Routes, Company shall also make visual observations of the General Construction Haul Route every two weeks and of the Overweight Construction Haul Routes following transportation of material requiring a County Haul Permit, and complete a Road Report, attached hereto as Exhibit E, documenting such observations, comparing them to prior observations and the most recent Road Condition Survey, and identifying any new damage to the County Roads and Appurtenances. The Road Report shall include an assessment of current dust control on gravel roads per applicable County dust control requirements. Company shall share such Road Report with the County within two (2) business days of completion.
- D. County staff may also conduct periodic inspections of the Haul Routes at their discretion and shall complete a Road Report if any damage to a County Road or Appurtenances allegedly caused by Segment 5 is observed. Such Road Reports shall be shared with the Company within two (2) business days of completion.

7. Mitigation, Maintenance, and Repair of Impacts to Haul Routes.

- A. During Construction of Segment 5. Should any Road Report or Road Condition Survey completed by any Party identify new Road Damage or a requirement for further dust control along a Haul Route, the Company and the County shall make best efforts to meet within three (3) business days to determine whether such damage was caused wholly or partially by Company's activities related to Segment 5 and, if so, whether the damage shall be repaired by Company or the County. If the damage is to be repaired by the Company, the Company must obtain all appropriate permits, including but not limited to a County Work-in-the-Right-of-Way permit, prior to conducting such work. If the damage is to be repaired by the County, the funds necessary to reimburse the County for the cost of such repairs may be withdrawn from the County Road Funds provided by Company, as applicable.
- B. Final Restoration of Haul Routes.

1. The County and Company agree that in addition to the Company's ongoing repair and maintenance obligations for the Haul Routes during the course of construction of Segment 5, the use of the Haul Routes by the Company for construction of Segment 5 will require final restoration of the Haul Routes to a condition substantially similar to the condition of such Haul Routes prior to the Company's use thereof.
 2. To secure funds for the costs of such final restoration of the Haul Routes as provided herein, the Company agrees to furnish to the County a surety bond in an amount equal to one hundred fifteen percent (115%) of the Company's estimated costs to repair and complete final restoration of the Haul Routes damaged by the Company's use of the same during construction of Segment 5, as described in this Agreement (the "Estimated Costs," and the security for the Estimated Costs, the "County Road Funds").
 3. The purpose of the County Road Funds is solely to determine the amount of security for the Company's mitigation and repair obligations under this Agreement. No representations are made as to the accuracy of these estimates, and Company agrees to pay all costs of repair and final restoration for which it is legally obligated, pursuant to this Agreement regardless of the adequacy of the County Road Funds.
 4. If Road Damage to a Haul Route is identified and repaired by the County while this Agreement remains in effect, the County may withdraw from the County Road Funds the amount necessary to reimburse itself for the cost of such repairs caused by the Company's use of the Haul Route. If no County Road Funds are available due to previous reimbursements, the Company shall reimburse the County for such Road Damage repairs conducted by the County within thirty (30) days of receiving an invoice for such repairs.
 5. If Company repairs Road Damage to a Haul Route, and the County-required scope of such work exceeds that necessary to repair road damage wholly caused by Company's Project activities, the County may authorize the return to Company of County Road Funds for the additional work.
 6. Upon Preliminary Acceptance of restoration of the Haul Routes, the County Road Funds shall be reduced to the amount of fifteen percent (15%) of the total actual cost of final restoration of the Haul Routes. The released portion of the County Road Funds shall be returned to the Company as soon as practicable. The reduced County Road Funds shall be held by the County until expiration of the two (2) year warranty period and then returned to the Company.
 7. If no final restoration is required at the time of the post-construction inspection, the County Road Funds shall be released by the County in their entirety to the Company.
- C. Time Limit for Restoration of Haul Routes. The Company shall complete all final restoration of Road Damage to Haul Routes within six (6) months of the completion of the portion of Segment 5.

8. **Emergencies.** The County may, in emergency situations, and acting reasonably, and without giving any notice to the Company as required elsewhere in this Agreement, take immediate and all action necessary to complete repairs to Haul Routes that the County deems necessary for public safety. All costs incurred by the County for emergency maintenance or repairs caused by Company's use of the County Roads shall be the responsibility of the Company. Payments for such costs shall be due within thirty (30) days from invoice by the County.
9. **Compliance with Applicable Laws.** Company must comply with all applicable federal, state, and local laws, ordinances, rules, and regulations and all applicable approvals, permits, and licenses during its use of the Haul Routes for Segment 5. The Company may not utilize the Haul Routes as provided for in this Agreement until such time as the Company's 1041 permit and site development plan applications are approved by the County.
10. **Indemnification.** The Company and its successors and assigns shall indemnify and hold harmless the County and their respective elected officials and employees, agents, and contractors from and against any and all losses, injuries, damages, claims, demands, suits, liabilities, causes of action, settlements, costs, or expenses that are caused by or result from the acts and omissions of Company or its employees, officers, or agents arising from the installation, construction, operation, maintenance, and repair of Segment 5. Nothing in this paragraph shall be interpreted to limit or waive any of the immunities, rights, limitations of liability and defenses afforded the County under the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq.
11. **Assignment.** No Party may assign its rights and obligations under this Agreement without the prior written consent of all other Parties, which consent shall not be unreasonably withheld.
12. **Nuisance Conditions.** The Company shall prevent the creation of any nuisances by way of its maintenance or restoration of County Roads under this Agreement. If the County determines that a nuisance exists, it shall notify the Company in writing that such nuisance exists. If the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' written notice to the Company within which it may cure the condition, draw upon the County Road Funds to pay the cost of abating the nuisance. The decision to draw on the County Road Funds shall be within the sole discretion of the County.
13. **Waivers.**
 1. Failure by either party to this Agreement to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.
 2. By entering into this Agreement, the County does not waive, nor shall it be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising by third parties.
14. **Successors and Assigns.** This Agreement shall inure to the benefit of, and be binding upon the

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Effective Date.

Attest:

Steve Schleiker
County Clerk & Recorded

**BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY**

Approved as to form:

Cami Bremer, Chair

County Attorney's Office

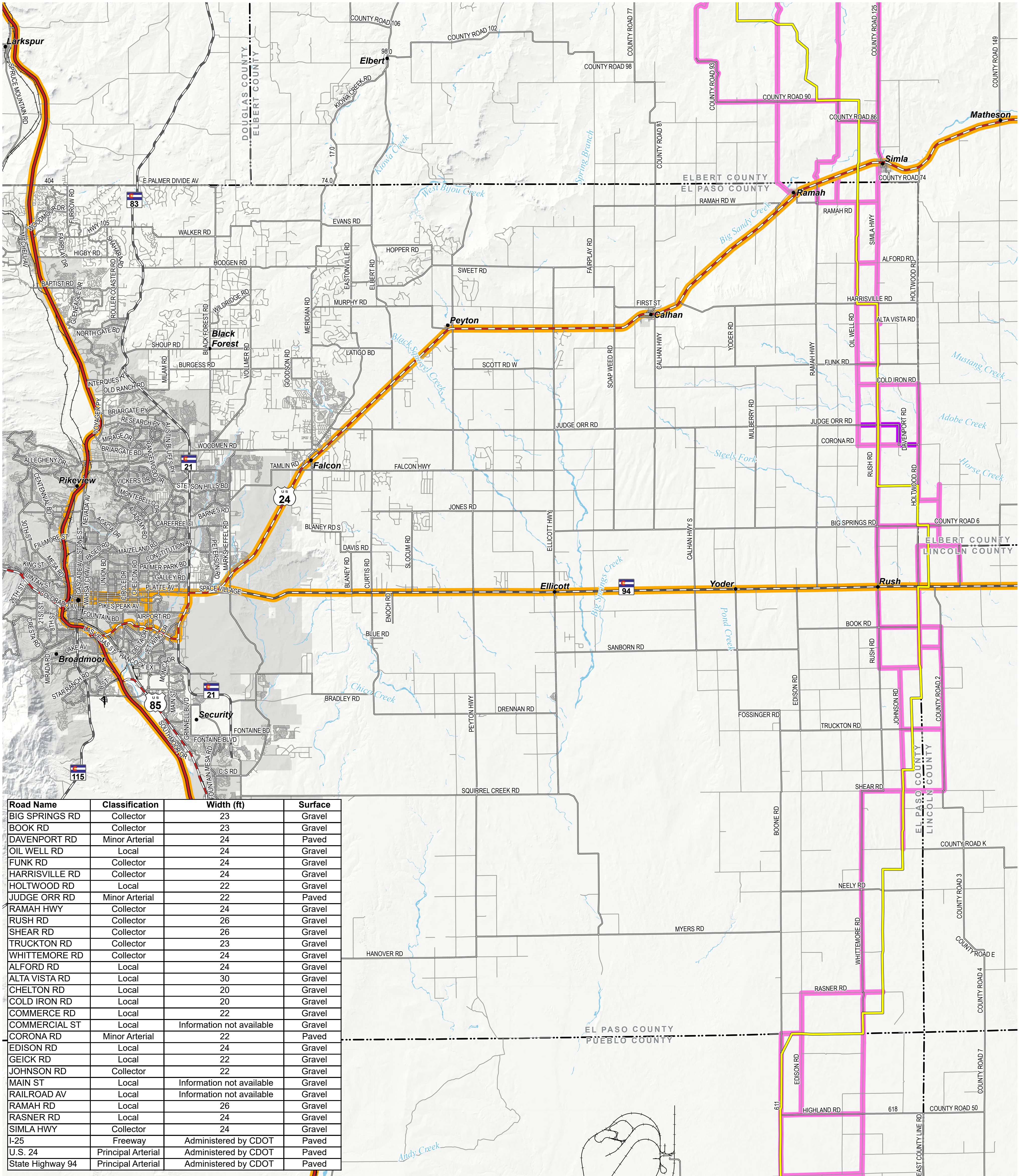
**PUBLIC SERVICE COMPANY OF
COLORADO, A COLORADO
CORPORATION**

By: _____

Name: _____

Title: _____

COLORADO'S POWER PATHWAY



| Road Name | Classification | Width (ft) | Surface |
|------------------|--------------------|---------------------------|---------|
| BIG SPRINGS RD | Collector | 23 | Gravel |
| BOOK RD | Collector | 23 | Gravel |
| DAVENPORT RD | Minor Arterial | 24 | Paved |
| OIL WELL RD | Local | 24 | Gravel |
| FUNK RD | Collector | 24 | Gravel |
| HARRISVILLE RD | Collector | 24 | Gravel |
| HOLTWOOD RD | Local | 22 | Gravel |
| JUDGE ORR RD | Minor Arterial | 22 | Paved |
| RAMAH HWY | Collector | 24 | Gravel |
| RUSH RD | Collector | 26 | Gravel |
| SHEAR RD | Collector | 26 | Gravel |
| TRUCKTON RD | Collector | 23 | Gravel |
| WHITTEMORE RD | Collector | 24 | Gravel |
| ALFORD RD | Local | 24 | Gravel |
| ALTA VISTA RD | Local | 30 | Gravel |
| CHELTON RD | Local | 20 | Gravel |
| COLD IRON RD | Local | 20 | Gravel |
| COMMERCE RD | Local | 22 | Gravel |
| COMMERCIAL ST | Local | Information not available | Gravel |
| CORONA RD | Minor Arterial | 22 | Paved |
| EDISON RD | Local | 24 | Gravel |
| GEICK RD | Local | 22 | Gravel |
| JOHNSON RD | Collector | 22 | Gravel |
| MAIN ST | Local | Information not available | Gravel |
| RAILROAD AV | Local | Information not available | Gravel |
| RAMAH RD | Local | 26 | Gravel |
| RASNER RD | Local | 24 | Gravel |
| SIMLA HWY | Collector | 24 | Gravel |
| I-25 | Freeway | Administered by CDOT | Paved |
| U.S. 24 | Principal Arterial | Administered by CDOT | Paved |
| State Highway 94 | Principal Arterial | Administered by CDOT | Paved |

Legend

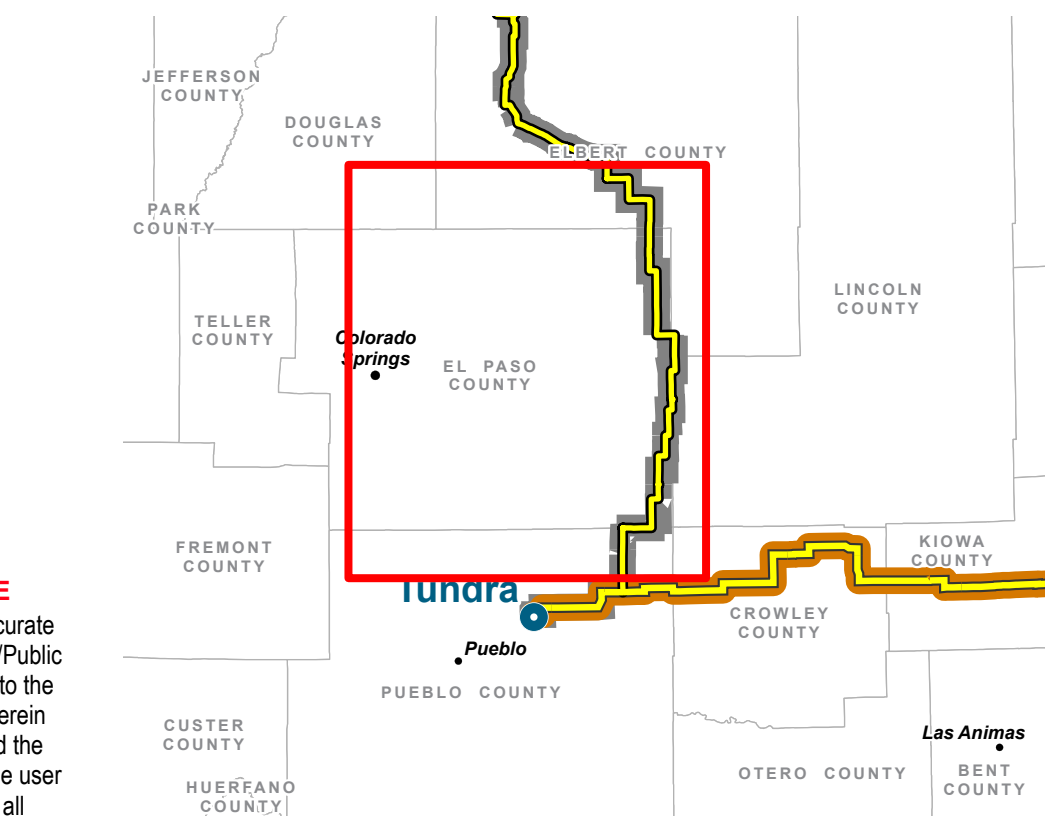
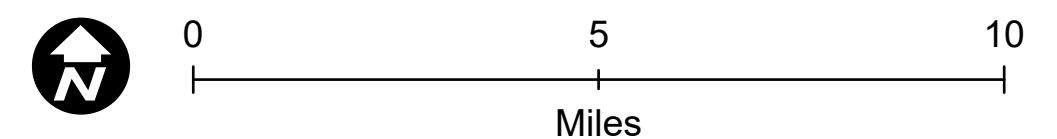
- Proposed Transmission Route
- Heavy Material Delivery Route - Paved*
- *Routes used to transport bulk equipment and materials to laydown yards
- General Construction Haul Route - Paved**
- General Construction Haul Route - Gravel**
- **Routes used to deliver materials (e.g., anchor bolts, poles, concrete) to individual work sites

Boundary
(CDOT 2021, DOLA 2021)

- Municipal Boundary
- County

Transportation
(CDOT 2021, BTS 2020)

- U.S. Highway
- State Highway
- Local Road



PRELIMINARY, SUBJECT TO CHANGE
The information contained herein is believed to be accurate and suitable for limited internal use only. Xcel Energy/Public Service Company of Colorado makes no warranty as to the accuracy or suitability of any information contained herein for use by third parties. The accuracy of this map and the information depicted should be verified prior to use. The user shall assume all risk and responsibility for any and all damages, including consequential damages, which may arise from the user's reliance on this information.

Revised: 6/20/2024 | NOT FOR CONSTRUCTION
Path: Z:\Projects\IDEN\1163_0039_CO_Pathway_Permits\GIS\Layouts\Permitting\El_Paso_Co\El_Paso_Co_Permit.aprx

Exhibit A: El Paso County Construction Access