



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE**

**MONDAY, NOVEMBER 28, 2022
7:00 PM**

Individuals Requiring Special Accommodations Should Notify the City's ADA Coordinator at (719) 553-2295 by Noon on the Friday Preceding the Meeting.

A. CALL TO ORDER

President Heather Graham

B. INVOCATION

Pastor Phil Lucero, Praise Assembly of God

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 Proclamation: "Human Rights Day" - December 10, 2022; Jean Flynn Ray, Pueblo Human Relations Commission Chair

F. PUBLIC FORUM

G. COUNCIL MEMBER AND MAYOR COMMENTARY

H. REVIEW OF AGENDA

I. APPROVAL OF AGENDA

Motion to Amend the Agenda or Motion to Approve the Agenda as distributed.

J. READING AND APPROVAL OF MINUTES

Motion to dispense with the reading and approve the Minutes of the Regular Meeting dated November 14, 2022, as distributed.

J1 City Council Minutes for November 14, 2022

K. CONSENT AGENDA

All items listed in this portion of the agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilperson so requests; in which event, the item will be removed from the Consent Agenda and considered under the Regular Agenda. Unless otherwise indicated, titles are self-explanatory.

L. COMMUNICATIONS

L1 Minutes of the Planning and Zoning Commission Regular Meeting dated October 12, 2022

M. RESOLUTIONS

- M1 A Resolution ratifying an emergency construction contract in the amount of \$68,766.35 with Parker Excavating, Inc. For Emergency Sanitary sewer point repair at 508 Minnequa Ave, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of same
- M2 A Resolution ratifying an emergency construction contract in the amount of \$5,857.22 with Parker Excavating, Inc. for Emergency Sanitary sewer point repair at 2232 Spruce St, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of same
- M3 A Resolution ratifying an emergency construction contract in the amount of \$197,590.55 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 2024 Spruce St, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of same
- M4 A Resolution awarding a construction contract in the amount of \$136,582 to Doug Vaughn, LLC., a Limited Liability Company, for Project No. 22-091, Concrete Improvements - Joplin, setting forth \$23,418 for contingencies, and authorizing the Purchasing Agent to execute same
- M5 A Resolution awarding an agreement for Architectural Consulting Services in the amount of \$90,800 to EV Studio, LLC., a Limited Liability Company, for 22-057 El Centro Del Quinto Sol Recreation Center Renovation, and authorizing the Purchasing Agent to execute same
- M6 A Resolution awarding an agreement for Professional Engineering Services in the amount of \$123,014.74 to Short-Elliott-Hendrickson, Inc., a Colorado Corporation, for Project No. 22-041 RFQ Design and Engineering for Adams Avenue and Jackson Street Roundabout Project and authorizing the Purchasing Agent to execute same
- M7 A Resolution approving Amendment No. 3 to the Agreement for professional engineering services between the City of Pueblo, a Municipal Corporation, and Short-Elliott-Hendrickson, Inc., in the amount of \$63,841.35 for 20-024, Northern Avenue Trail Phase III, and authorizing the Purchasing Agent to execute same
- M8 A Resolution approving a Sponsorship Agreement between the City of Pueblo, a Municipal Corporation, and Cactus Communications, Inc., a Colorado Corporation, on behalf of its client, the Colorado Lottery
- M9 A Resolution tabling final action on the petition for the annexation of the area commonly known as the Jackson Ranch Annexation 1, generally located southeast of State Highway 78 and southwest of El Camino subdivision, 17th filing for an additional period of not more than 180 days
- M10 A Resolution tabling final action on the petition for the annexation of the area commonly known as the Jackson Ranch Annexation 2, generally located southeast of State Highway 78 and southwest of El Camino subdivision, 17th filing and south of Jackson Ranch Annexation 1, for an additional period of not more than 180 days
- M11 A Resolution tabling final action on the petition for the annexation of the area commonly known as the Jackson Ranch Annexation 3, generally located southeast of State Highway 78 and southwest of El Camino subdivision, 17th filing and south of Jackson Ranch Annexations 1 and 2, for an additional period of not more than 180 days
- M12 A Resolution authorizing participation by the City of Pueblo, a Colorado Municipal Corporation, in the State Of Colorado's Rural Jump-Start Program

M13 A Resolution in support of further investigation and planning concerning the feasibility of constructing an automated transit network in the City of Pueblo

M14 A Resolution confirming the appointment by the Mayor of Kennedy Pugh, Orlando Rodriguez II, and Benjamin Caldera to the Pueblo Human Relations Commission

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance budgeting and appropriating insurance proceeds in the amount of \$148,338.77 into Project SWAN01 Equipment Purchases Stormwater
- N2 An Ordinance approving a deposit agreement between the City of Pueblo, a Municipal Corporation, and Sky Creek Homes, LTD, LLC., a Colorado Limited Liability Company, related to the installation and construction of required public improvements within Settlers Village Filing Six Subdivision and authorizing the Mayor to execute said agreement
- N3 An Ordinance establishing PS-2216, approving a cooperation agreement with Pueblo Triple Aim Corporation, and accepting, budgeting and appropriating funds in the amount of \$8700 to said project
- N4 An Ordinance amending Sections 7-1-3, 7-3-5, 7-3-42, and 7-4-4 of Title VII of Chapters 1, 3 and 4 of the Pueblo Municipal Code relating to liens for nuisances, litter, junk vehicles, weeds, and vacant property registration, and expanding the remedies to collect such liens to include foreclosure and assignment
- N5 An Ordinance requiring abortion providers in Pueblo to comply with Federal law

O. APPROVAL OF CONSENT AGENDA

I move to receive and file the minutes from the Planning and Zoning Commission, approve all Resolutions Set Forth in the Consent Agenda; Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for December 12, 2022, and Order the Ordinances to be published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

- Q1 A Resolution authorizing payment of additional funds in the amount of One Million Dollars (\$1,000,000) from Project No. CI2113 - American Rescue Plan Act, for purposes of constructing sewer infrastructure, as authorized by Section 603(c)(1)(d) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6
- Q2 A Resolution accepting a donation of \$10,000 from the Colorado Health Foundation, to support the wellbeing of Pueblo Food Project staff members, into contribution Project No. CO2204
- Q3 A Resolution authorizing payment from the council contingencies account in the 2022 general fund budget to Colorado Arts & Artists Association in the amount of \$7,500 to sponsor the "No One Hears Unless You Scream" suicide prevention project
- Q4 A Resolution authorizing payment from the council contingencies account in the 2022 general fund budget to Crazy Faith Street Ministry in the amount of \$2,400 to sponsor the warming shelter for November 11-13, 2022
- Q5 A Resolution authorizing payment from the council contingencies account in the 2022 general fund budget to CIBC Westend Academy in the amount of \$1,000 to sponsor the "3rd Annual Hair Loss Awareness Fashion Show" at 5 pm on Saturday, December 10, 2022

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance levying and certifying the City of Pueblo property tax mill levy made in 2022 for the 2023 budget year - *Introduced November 14, 2022 by Larry Atencio*
- R2 An Ordinance levying and certifying the Bandera Boulevard Special Improvement Maintenance District property tax mill levy made in 2022 for the 2023 budget year - *Introduced November 14, 2022 by Larry Atencio*
- R3 An Ordinance levying and certifying the Southpointe Special Improvement Maintenance District property tax mill levy made in 2022 for the 2023 budget year - *Introduced November 14, 2022 by Larry Atencio*
- R4 An Ordinance awarding an agreement for MEP Engineering Services in the amount of \$21,664 to Bridgers & Paxton Consulting Engineers, Inc., for 22-013 Project No.1, Mineral Palace Atrium HVAC Renovation, and authorizing the Purchasing Agent to execute same - *Introduced November 14, 2022 by Larry Atencio*
- R5 An Ordinance approving a license agreement between the City of Pueblo, a Municipal Corporation, and Vero Broadband, LLC., a Colorado Limited Liability Company - *Introduced November 14, 2022 by Larry Atencio*
- R6 An Ordinance approving a license agreement between the City of Pueblo, a Municipal Corporation and Vero Fiber Networks, LLC., a Colorado Limited Liability Company - *Introduced November 14, 2022 by Larry Atencio*
- R7 An ordinance approving The Landlord Consent Agreement between the City of Pueblo, a Municipal Corporation, and Freeman Holdings of Colorado, LLC, a limited liability corporation, (“Freeman”) and Centennial Bank, for Freeman to use its leasehold interest to secure a business loan, and authorizing the Mayor to execute same - *Introduced November 14, 2022 by Larry Atencio*
- R8 An Ordinance approving a joint funding agreement between the City of Pueblo, a Colorado Municipal Corporation, and the U.S. Geological Survey, United States Department of the Interior, to continue the collection of hydrologic data along Fountain Creek and the Arkansas River and authorizing the Mayor to execute said agreement - *Introduced November 14, 2022 by Larry Atencio*
- R9 An Ordinance approving the second amendment to the Restated Annexation Agreement for the area commonly known as the North Vista Annexation described as land north of Vision Hills Parkway and west of Troy Avenue - *Introduced November 14, 2022 by Larry Atencio*
- R10 An Ordinance approving a cooperation agreement with Pueblo Triple Aim Corporation and authorizing the Mayor to execute same, establishing Project No. PS2214, and accepting, budgeting and appropriating funds in the amount of \$71,184.48 to said project - *Introduced November 14, 2022 by Larry Atencio*
- R11 An Ordinance amending the Fiscal Year 2022 Staffing Ordinance by adding one (1) full-time position to the authorized staffing of the Fire Department entitled Community Risk Reduction Coordinator in support of the Directing Others to Services (DOTS) Program - *Introduced November 14, 2022 by Larry Atencio*
- R12 An Ordinance amending Section 6-5-16 of Chapter 5, of Title VI of the Pueblo Municipal Code relating to the FY 2022 Classification and Pay Plan by establishing the pay scale for Community Risk Reduction Coordinator - *Introduced November 14, 2022 by Larry Atencio*

- R13 An Ordinance amending the Fiscal Year 2022 Staffing Ordinance by adding one (1) full-time position entitled Director/Just Transitions Program to the authorized staffing of the Mayor's Office - *Introduced November 14, 2022 by Larry Atencio*
- R14 An Ordinance amending Section 6-5-16 of Chapter 5, of Title VI of the Pueblo Municipal Code relating to the FY 2022 Classification and Pay Plan by establishing the pay scale for Director/Just Transitions Program - *Introduced November 14, 2022 by Larry Atencio*
- R15 An Ordinance amending the Fiscal Year 2022 Staffing Ordinance by adding a position for training purposes within the Fleet Maintenance Division - *Introduced November 14, 2022 by Larry Atencio*
- R16 An Ordinance amending the Fiscal Year 2022 Staffing Ordinance by adding a position for training purposes within the department of the City Clerk - *Introduced November 14, 2022 by Larry Atencio*
- R17 An Ordinance amending Section 2-1-1 of Title II of Chapter 1 of the Pueblo Municipal Code relating to the monthly compensation of elected members of the Civil Service Commission - *Introduced November 14, 2022 by Larry Atencio*
- R18 An Ordinance approving an amendment to the collective bargaining agreement between the City of Pueblo and the International Association of Fire Fighters Local 3 relating to work schedules for firefighters assigned to work focus response vehicles - *Introduced November 14, 2022 by Larry Atencio*
- R19 An Ordinance approving and accepting a grant award to the City of Pueblo and Pueblo Police Department from the Patrick Leahy Bulletproof Vest Partnership administered by the U.S. Department of Justice, accepting \$5,537.87 for year 2022, establishing project number PS2212, and budgeting and appropriating funds not to exceed \$5,537.87 to project number PS2212 - *Introduced November 14, 2022 by Larry Atencio*
- R20 An Ordinance approving and authorizing a memorandum of understanding between the City of Pueblo, a Municipal Corporation, and the Pueblo County Sheriff's Office, regarding the use of a FARO 3D CSI camera system, and ratifying the mayor's signature thereof - *Introduced November 14, 2022 by Larry Atencio*
- R21 An Ordinance approving an agreement between Pueblo School District 60, dba Pueblo City Schools, and the City of Pueblo for the School Resource Officer Program during the period of January 1 through December 31, 2023, and authorizing the mayor to execute same - *Introduced November 14, 2022 by Larry Atencio*
- R22 An Ordinance suspending the payment of the monthly street repair utility service charges for twelve consecutive months beginning with each utility customer's January, 2023 utility bill - *Introduced November 14, 2022 by Larry Atencio*

S. COUNCIL MEMBER CONFLICT OF INTEREST

Councilor Sarah Martinez may ask to be excused from the meeting due to a potential conflict of interest with agenda item number S-1.

- S1 An Ordinance making appropriation for the general fund, special revenue funds, enterprise funds, internal service funds, debt service funds, and capital project funds for the fiscal year 2023 and adopting the budget for the year 2023 - *Introduced November 14, 2022 by Larry Atencio*

T. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
MONDAY, NOVEMBER 14, 2022 - 7:00 PM
MINUTES**

A. CALL TO ORDER

President Graham called the meeting to order at 7:12 p.m.

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

Council Members Present: Larry Atencio, Dennis Flores, Heather Graham, Regina Maestri, Sarah Martinez, Vicente Martinez Ortega, Lori Winner.

Council Members Present via Zoom: None.

Council Members Absent: None.

Administrative Staff Members Present: Mayor Nicholas Gradisar, Chief of Staff Laura Solano, City Attorney Daniel Kogovsek, City Clerk Marisa Stoller.

E. SPECIAL RECOGNITIONS

**E1 PROCLAMATION: “RENEE F. DOMINGUEZ DAY” - NOVEMBER 14, 2022;
LAVERNE & MIGUEL DOMINGUEZ, MOTHER AND SON OF RENEE**

- President Graham read the proclamation declaring November 14th, 2022 to be Renee F. Dominguez Day.

F. PUBLIC FORUM

- Allison Evans - Hair Loss Awareness
- Quin Friborg - Dr. Carhart
- Lena Pasternak - Dr. Carhart
- Velma Campbell - Take it Down
- Jordan Meacham - Take it Down
- Helen Banner - Dr. Carhart

G. COUNCIL MEMBER AND MAYOR COMMENTARY

Mayor Gradisar thanked the voters for passing 2A and 2B. He updated Council regarding Evraz's construction progress. He also spoke regarding the abortion clinic and the inability for the City to regulate it.

Council members spoke regarding events they attended and matters of public concern.

H. REVIEW OF AGENDA

The agenda was reviewed page by page.

I. APPROVAL OF AGENDA

Councilor Martinez Ortega, seconded by Councilor Winner, moved to continue item R7 to the November 28, 2022 agenda.

Roll Call - **Ayes:** Councilor Flores, Councilor Martinez Ortega. **Nays:** Councilor Atencio, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. Motion Failed 2-5.

Councilor Martinez, seconded by Councilor Flores, moved to remove item M3 from the agenda, to move item R7 to after item R1 and to approve the agenda as amended.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

J. READING AND APPROVAL OF MINUTES

J1 CITY COUNCIL MINUTES FOR OCTOBER 24, 2022

Councilor Flores, seconded by Councilor Atencio, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **October 24, 2022** as distributed.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

K. CONSENT AGENDA

Councilor Atencio, seconded by Councilor Martinez Ortega, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for November 28, 2022, and Order the Ordinances to be published BY TITLE.

Roll Call – **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion 7-0.

L. COMMUNICATIONS

L1 MINUTES OF THE PLANNING AND ZONING COMMISSION'S REGULAR MEETINGS DATED APRIL 13, 2022, MAY 11, 2022, JUNE 8, 2022, JULY 13, 2022, AUGUST 10, 2022 AND SEPTEMBER 14, 2022

M. RESOLUTIONS

- M1 A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$23,272.55 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2410 EAST EVANS AVENUE, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME**

This Resolution was assigned as 15040.

- M2 A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$13,960 TO DOUG VAUGHN, LLC., FOR PROJECT NO. 22-090, CURB AND GUTTER IMPROVEMENTS - GRAND AVENUE BETWEEN 17TH & 18TH STREETS, SETTING FORTH \$5,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15041.

- M3 A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$123,014.74 TO SHORT-ELLIOTT-HENDRICKSON, INC., A COLORADO CORPORATION, FOR PROJECT NO. 22-041 RFQ DESIGN AND ENGINEERING FOR ADAMS AND JACKSON ROUNDABOUT PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

Removed from agenda.

- M4 A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$70,865.50 TO MEAD & HUNT, INC., A COLORADO CORPORATION, FOR PROJECT NO. 22-073 DESIGN AND ENGINEERING FOR BERKLEY AVENUE AND MESA AVENUE ROUNDABOUT PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15042.

- M5 A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$9,900 TO NORTHSTAR ENGINEERING AND SURVEYING, INC., FOR 22A-039 ENGINEERING AND SURVEYING SERVICES FOR PLATTING OF FIRE STATION NO. 8, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15043.

- M6 A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$37,552.30 TO SASQUATCH FLOORING, LLC., A COLORADO LIMITED LIABILITY COMPANY FOR PROJECT NO. 22-074, REPLACE FLOORING IN THE MUNICIPAL COURT AREA AT PUEBLO MUNICIPAL JUSTICE CENTER (PMJC), SETTING FORTH \$3,755.23 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15044.

- M7 A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$314,040 TO CGRS, INC., AND SETTING FORTH \$31,404 FOR CONTINGENCIES AND ADDITIONAL WORK FOR PROJECT NO. 22-067**

**INSTALLATION OF DUCKBILL CHECK VALVES ON STORM SEWER
OUTFALL PIPES ALONG FOUNTAIN CREEK AND AUTHORIZING THE
PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15045.

**M8 A RESOLUTION APPROVING AND ACCEPTING A SPECIAL WARRANTY
DEED FROM INHABX, LLC., A COLORADO LIMITED LIABILITY COMPANY,
FOR 0.039 ACRES OF LAND**

This Resolution was assigned as 15046.

**M9 A RESOLUTION APPROVING AND ACCEPTING A PUBLIC ACCESS
EASEMENT AND RIGHT OF WAY FROM INHABX, LLC., A COLORADO
LIMITED LIABILITY COMPANY, FOR 0.063 ACRES OF LAND**

This Resolution was assigned as 15047.

**M10 A RESOLUTION APPROVING AND ACCEPTING A SANITARY SEWER
EASEMENT FROM INHABX, LLC., A COLORADO LIMITED LIABILITY
COMPANY, FOR 0.084 ACRES OF LAND**

This Resolution was assigned as 15048.

**M11 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT
TO THE HISTORIC ARKANSAS RIVERWALK OF PUEBLO AUTHORITY FOR
USE OF VICTORIA AVENUE, GREENWOOD STREET AND ELIZABETH
STREET TO CONDUCT THE ANNUAL HOLIDAY LIGHTING EXTRAVAGANZA**

This Resolution was assigned as 15049.

**M12 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT
TO PUEBLO COUNTY BOARD OF COUNTY COMMISSIONERS FOR THE USE
OF WEST 10TH STREET BETWEEN NORTH MAIN STREET AND COURT
STREET AND NORTH MAIN STREET AND COURT STREET BETWEEN WEST
10TH STREET AND WEST 11TH STREET TO HOST THE COURTHOUSE
LIGHTING CEREMONY**

This Resolution was assigned as 15050.

**M13 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT
TO THE YMCA OF PUEBLO FOR THE USE OF SPAULDING AVENUE,
PARKER BOULEVARD, AND WEST 31ST STREET TO HOST THE ANNUAL
TURKEY TROT - 5K RUN/WALK**

This Resolution was assigned as 15051.

**M14 A RESOLUTION EXTENDING THE TERM OF THE AMERICAN RESCUE PLAN
ACT FIRE FIT KIDS PROJECT FROM DECEMBER 31, 2022 UNTIL DECEMBER
31, 2024**

This Resolution was assigned as 15052.

**M15 A RESOLUTION TO AMEND RESOLUTION NO. 14986 FUNDING SOURCE
FOR PROJECT NO. 22-033 ICE ARENA COOLING TOWER REPLACEMENT**

This Resolution was assigned as 15053.

M16 A RESOLUTION CONSENTING TO PARTICIPATION BY THE BOARD OF WATER WORKS OF PUEBLO, COLORADO IN THE COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY

This Resolution was assigned as 15054.

M17 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF NATHANIEL DINSMORE TO THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE

This Resolution was assigned as 15055.

M18 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF JOE LATINO, MIKE RICOTTONE, AND TONY MONTOYA TO THE PUEBLO MUNICIPAL GOLF COURSE ENTERPRISE ADVISORY COMMITTEE

This Resolution was assigned as 15056.

N. ORDINANCES – FIRST PRESENTATION

N1 AN ORDINANCE LEVYING AND CERTIFYING THE CITY OF PUEBLO PROPERTY TAX MILL LEVY MADE IN 2022 FOR THE 2023 BUDGET YEAR

N2 AN ORDINANCE LEVYING AND CERTIFYING THE BANDERA BOULEVARD SPECIAL IMPROVEMENT MAINTENANCE DISTRICT PROPERTY TAX MILL LEVY MADE IN 2022 FOR THE 2023 BUDGET YEAR

N3 AN ORDINANCE LEVYING AND CERTIFYING THE SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE DISTRICT PROPERTY TAX MILL LEVY MADE IN 2022 FOR THE 2023 BUDGET YEAR

N4 AN ORDINANCE AWARDING AN AGREEMENT FOR MEP ENGINEERING SERVICES IN THE AMOUNT OF \$21,664 TO BRIDGERS & PAXTON CONSULTING ENGINEERS, INC., FOR 22-013 PROJECT NO.1, MINERAL PALACE ATRIUM HVAC RENOVATION, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

N5 AN ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND VERO BROADBAND, LLC., A COLORADO LIMITED LIABILITY COMPANY

N6 AN ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND VERO FIBER NETWORKS, LLC., A COLORADO LIMITED LIABILITY COMPANY

- N7 AN ORDINANCE APPROVING THE LANDLORD CONSENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABILITY CORPORATION, ("FREEMAN") AND CENTENNIAL BANK, FOR FREEMAN TO USE ITS LEASEHOLD INTEREST TO SECURE A BUSINESS LOAN, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**
- N8 AN ORDINANCE APPROVING A JOINT FUNDING AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, TO CONTINUE THE COLLECTION OF HYDROLOGIC DATA ALONG FOUNTAIN CREEK AND THE ARKANSAS RIVER AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT**
- N9 AN ORDINANCE APPROVING THE SECOND AMENDMENT TO THE RESTATED ANNEXATION AGREEMENT FOR THE AREA COMMONLY KNOWN AS THE NORTH VISTA ANNEXATION DESCRIBED AS LAND NORTH OF VISION HILLS PARKWAY AND WEST OF TROY AVENUE**
- N10 AN ORDINANCE APPROVING A COOPERATION AGREEMENT WITH PUEBLO TRIPLE AIM CORPORATION AND AUTHORIZING THE MAYOR TO EXECUTE SAME, ESTABLISHING PROJECT NO. PS2214, AND ACCEPTING, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$71,184.48 TO SAID PROJECT**
- N11 AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION TO THE AUTHORIZED STAFFING OF THE FIRE DEPARTMENT ENTITLED COMMUNITY RISK REDUCTION COORDINATOR IN SUPPORT OF THE DIRECTING OTHERS TO SERVICES (DOTS) PROGRAM**
- N12 AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR COMMUNITY RISK REDUCTION COORDINATOR**
- N13 AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION ENTITLED DIRECTOR/JUST TRANSITIONS PROGRAM TO THE AUTHORIZED STAFFING OF THE MAYOR'S OFFICE**
- N14 AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI**

**OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022
CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR
DIRECTOR/JUST TRANSITIONS PROGRAM**

**N15 AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING
ORDINANCE BY ADDING A POSITION FOR TRAINING PURPOSES WITHIN
THE FLEET MAINTENANCE DIVISION**

**N16 AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING
ORDINANCE BY ADDING A POSITION FOR TRAINING PURPOSES WITHIN
THE DEPARTMENT OF THE CITY CLERK**

**N17 AN ORDINANCE AMENDING SECTION 2-1-1 OF TITLE II OF CHAPTER 1 OF
THE PUEBLO MUNICIPAL CODE RELATING TO THE MONTHLY
COMPENSATION OF ELECTED MEMBERS OF THE CIVIL SERVICE
COMMISSION**

**N18 AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE
BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 3 RELATING TO
WORK SCHEDULES FOR FIREFIGHTERS ASSIGNED TO WORK FOCUS
RESPONSE VEHICLES**

**N19 AN ORDINANCE APPROVING AND ACCEPTING A GRANT AWARD TO THE
CITY OF PUEBLO AND PUEBLO POLICE DEPARTMENT FROM THE PATRICK
LEAHY BULLETPROOF VEST PARTNERSHIP ADMINISTERED BY THE U.S.
DEPARTMENT OF JUSTICE, ACCEPTING \$5,537.87 FOR YEAR 2022,
ESTABLISHING PROJECT NUMBER PS2212, AND BUDGETING AND
APPROPRIATING FUNDS NOT TO EXCEED \$5,537.87 TO PROJECT NUMBER
PS2212**

**N20 AN ORDINANCE APPROVING AND AUTHORIZING A MEMORANDUM OF
UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A MUNICIPAL
CORPORATION, AND THE PUEBLO COUNTY SHERIFF'S OFFICE,
REGARDING THE USE OF A FARO 3D CSI CAMERA SYSTEM, AND
RATIFYING THE MAYOR'S SIGNATURE THEREOF**

**N21 AN ORDINANCE APPROVING AN AGREEMENT BETWEEN PUEBLO SCHOOL
DISTRICT 60, DBA PUEBLO CITY SCHOOLS, AND THE CITY OF PUEBLO
FOR THE SCHOOL RESOURCE OFFICER PROGRAM DURING THE PERIOD
OF JANUARY 1 THROUGH DECEMBER 31, 2023, AND AUTHORIZING THE
MAYOR TO EXECUTE SAME**

N22 AN ORDINANCE MAKING APPROPRIATION FOR THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS, AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2023 AND ADOPTING THE BUDGET FOR THE YEAR 2023

N23 AN ORDINANCE SUSPENDING THE PAYMENT OF THE MONTHLY STREET REPAIR UTILITY SERVICE CHARGES FOR TWELVE CONSECUTIVE MONTHS BEGINNING WITH EACH UTILITY CUSTOMER'S JANUARY, 2023 UTILITY BILL

O. APPROVAL OF CONSENT AGENDA

Councilor Atencio, seconded by Councilor Martinez Ortega, moved to approve the minutes of the Planning & Zoning Commission, approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for November 28, 2022, and Order the Ordinances to be published BY TITLE.

Roll Call – **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$818,080 TO K. R. SWERDFEGER CONSTRUCTION, INC., AND SETTING FORTH \$163,616 FOR CONTINGENCIES, FOR PROJECT NO. 22-061 (WW1901) 2022 NORTH ELIZABETH UPSIZING REHABILITATION PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

A staff report and detailed review of the Resolution was given by Andra Ahrens, Director of Wastewater.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Resolution was assigned as 15057.

Q2 A RESOLUTION ESTABLISHING PROJECT NUMBER PST2202, AND AUTHORIZING THE TRANSFER OF \$1,078,000 FROM THE PUBLIC SAFETY SALES TAX ACCOUNT INTO PROJECT NUMBER PST2202 FOR THE PURPOSE OF PURCHASING NEW MARKED POLICE VEHICLES

A staff report and detailed review of the Resolution was given by Chris Noeller, Chief of Police.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Resolution was assigned as 15058.

Q3 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE LATINO CHAMBER DEVELOPMENT FOUNDATION IN THE AMOUNT OF \$1,025 TO SUPPORT THE 11TH ANNUAL "FESTIVAL OF TREES" EVENT ON THURSDAY, DECEMBER 8, 2022, AT 5 PM AT THE PUEBLO UNION DEPOT

A staff report and detailed review of the Resolution was given by Councilor Sarah Martinez.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Resolution was assigned as 15059.

Q4 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE PUEBLO COMMUNITY SOUP KITCHEN IN THE AMOUNT OF \$10,000 TO PURCHASE AND UPDATE KITCHEN EQUIPMENT

A staff report and detailed review of the Resolution was given by Councilor Lori Winner.

Councilor Martinez Ortega, seconded by Councilor Atencio, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Resolution was assigned as 15060.

Q5 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PEDCO IN THE AMOUNT OF \$2,500 TO SPONSOR THE PUEBLO ECONOMIC OUTLOOK FORUM ON FRIDAY, NOVEMBER 18 AT 7 AM IN THE FORTINO BALLROOM OF PUEBLO COMMUNITY COLLEGE

A staff report and detailed review of the Resolution was given by Councilor Dennis Flores.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor

Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None.
Motion Passed 7-0.

This Resolution was assigned as 15061.

Q6 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO ROSELAWN FOUNDATION IN THE AMOUNT OF \$3,000 TO SPONSOR THE "WREATHS ACROSS AMERICA" EVENT ON SATURDAY, DECEMBER 17 AT 12 PM AT ROSELAWN CEMETERY

A staff report and detailed review of the Resolution was given by Councilor Regina Maestri.

Councilor Winner, seconded by Councilor Flores, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None.
Motion Passed 7-0.

This Resolution was assigned as 15062.

Q7 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET IN THE AMOUNT OF \$1,000 TO ASSIST IN FUNDING THE BESSEMER NEIGHBORHOOD HOLIDAY LIGHTING

A staff report and detailed review of the Resolution was given by Councilor Vicente Martinez Ortega.

Councilor Flores, seconded by Councilor Martinez Ortega, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None.
Motion Passed 7-0.

This Resolution was assigned as 15063.

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE AMENDING SECTION 14-4-76 OF THE PUEBLO MUNICIPAL CODE RELATING TO SALES AND USE TAX AND EXEMPTING FROM SALES TAX ALL SALES OF PERIOD PRODUCTS, INCONTINENCE PRODUCTS AND DIAPERS PURCHASED ON AND AFTER JANUARY 1, 2023

A staff report and detailed review of the Ordinance was given by Deputy City Attorney Robert Jagger.

PUBLIC HEARING:

- Patience Ruiz appeared in person to speak in favor of this ordinance
- Jade Moore appeared in person to speak in favor of this ordinance
- Sofia Johnson appeared in person to speak in favor of this ordinance
- Brandi Akai appeared in person to speak in favor of this ordinance

- Elvis Martinez appeared in person to speak in favor of this ordinance

Seeing no one else wished to speak, President Graham declared the Hearing closed.

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** Councilor Maestri. Motion Passed 6-1.

This Ordinance was assigned as **10318**.

R7 AN ORDINANCE CREATING A NEW SECTION 14 OF CHAPTER 1 OF TITLE XV OF THE PUEBLO MUNICIPAL CODE RELATING TO PEDESTRIAN SAFETY AND ACCESS TO SIDEWALKS AND PUBLIC RIGHTS OF WAY IN THE DOWNTOWN BUSINESS AREA OF THE CITY

A staff report and detailed review of the Ordinance was given by Daniel Kogovsek, City Attorney.

PUBLIC HEARING:

- Duane Nava appeared in person to speak in favor of this ordinance
- Redy Burna appeared in person to speak in favor of this ordinance
- Sean Conti appeared in person to speak in favor of this ordinance
- Bill Swabe appeared in person to speak in favor of this ordinance
- Jackie Seabold appeared in person to speak in favor of this ordinance
- Anita Stapleton appeared in person to speak in favor of this ordinance
- Jim Sprague appeared in person to speak in favor of this ordinance
- Michael Fetti appeared in person to speak in favor of this ordinance
- Alison Rae appeared in person to speak against this ordinance
- Megan Crowel appeared in person to speak against this ordinance
- Joan Botello appeared in person to speak regarding this ordinance
- Sarah Moaney appeared in person to speak against this ordinance
- Robert Simpson Lewis Jr appeared in person to speak against this ordinance
- Elvis Martinez appeared in person to speak against this ordinance
- Jordan Meakam appeared in person to speak against this ordinance
- Christy Cero appeared in person to speak in favor of this ordinance

Seeing no one else wished to speak, President Graham declared the Hearing closed.

Councilor Winner, seconded by President Graham, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Flores, President Graham, Councilor Maestri. **Nays:** Councilor Atencio, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. Motion Failed 3-4.

R2 AN ORDINANCE BUDGETING AND APPROPRIATING AN ADDITIONAL \$391,593 IN PACOG FY-2022-2023 CONSOLIDATED PLANNING GRANT FUNDS FOR TRANSPORTATION PLANNING SERVICES RELATED TO THE CITY OF PUEBLO AND PUEBLO AREA COUNCIL OF GOVERNMENTS 2023

DELEGATION AGREEMENT FOR TRANSPORTATION PLANNING SERVICES

A staff report and detailed review of the Ordinance was given by Eva Cosleyon, MPO Manager.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10319.**

R3 AN ORDINANCE APPROVING A DELEGATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO AREA COUNCIL OF GOVERNMENTS FOR 2023 TRANSPORTATION PLANNING SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME

A staff report and detailed review of the Ordinance was given by Eva Cosleyon, MPO Manager.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10320.**

R4 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE A PORTION OF LOTS 15, 16, 17, AND ALL OF 18 TO 21, BLOCK 2, DELAVAN PLACE SUBDIVISION FROM B-4, CENTRAL BUSINESS DISTRICT TO R-5, MULTIPLE RESIDENTIAL AND OFFICE DISTRICT

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that the Planning & Zoning documents for this item, Case #Z22-13 dated September 14, 2022, be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10321.

R5 AN ORDINANCE VACATING A PORTION OF SUMNER AVENUE, PEARL STREET AND BURDETTE AVENUE GENERALLY LOCATED AT SUMNER AVENUE AND PEARL STREET

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that the Planning & Zoning documents for this item, Case #V22-06 dated September 14, 2022, be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Atencio, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10322.

R6 AN ORDINANCE APPROVING A HANGAR LEASE AGREEMENT FOR 530 SKYWAY STREET AT PUEBLO MEMORIAL AIRPORT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND JAMES SPITZER, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

A staff report and detailed review of the Ordinance was given by Greg Pedroza, Airport Director.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10323.

R8 AN ORDINANCE AMENDING CHAPTER 4 OF TITLE XI OF THE PUEBLO MUNICIPAL CODE TO ALLOW ANIMAL SHELTER PERSONNEL TO ADMINISTER ANIMAL VACCINATIONS

A staff report and detailed review of the Ordinance was given by Assistant City Attorney James Wagner.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Maestri, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10324.**

R9 AN ORDINANCE AMENDING CHAPTER 3 OF TITLE XI OF THE PUEBLO MUNICIPAL CODE TO ALLOW THE CITY CLERK TO ADMINISTRATIVELY APPROVE CERTAIN LIQUOR LICENSE MATTERS DESIGNATED BY THE LIQUOR BOARD WHEN ALLOWED BY STATE LAW

A staff report and detailed review of the Ordinance was given by City Clerk Marisa Stoller.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the Hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10325.**

S. EMERGENCY ORDINANCE

S1 AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 10058 TO ENLARGE THE TIME FRAME WITHIN WHICH THE MAYOR MAY DECLARE TEMPORARY HOUSING AND SHELTER EMERGENCIES FROM DECEMBER 1ST TO NOVEMBER 1ST OF EACH YEAR

A staff report and detailed review of the Ordinance was given by City Attorney Daniel Kogovsek.

PUBLIC HEARING:

- Robert S. Lewis Jr. appeared in person to speak in favor of this ordinance

Seeing no one else wished to speak, President Graham declared the Hearing closed.

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10326**.

T. ADJOURN

President Graham adjourned the meeting at 11:10 p.m.

Respectfully submitted,

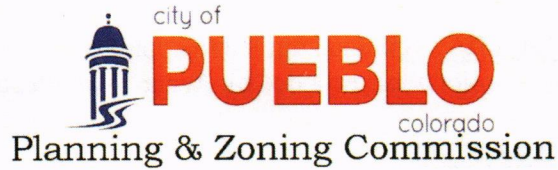
A handwritten signature in black ink, appearing to read "Marisa Stoller", written in a cursive style.

Marisa Stoller
City Clerk

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

MINUTES OF REGULAR MEETING

City of Pueblo, Colorado

Wednesday, October 12, 2022 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:

<https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNfZnpPWG1Ydz09>

Join Zoom Meeting by phone:

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

Online and phone Meeting ID and Password:

Meeting ID: 927 1786 7722

Passcode: 195462

Each case that follows proceeded in a uniform process as directed by Chair Castellucci. Beginning with a staff report presented by the planner assigned, then questions, if any, from the Board to staff members. Next, the applicant is sworn in by Commission Attorney, Daniel Kogovsek, then the applicant states his or her name and address. The Commission questions the applicant and confirms understanding of staff report and conditions for approval. Applicant may add further information, followed by questions, if any, from the Commission. Then the Commission asks if anyone present in the audience wishes to testify in support of the application, followed by those who wish to testify in opposition. All individuals testifying in support or opposition are sworn in by Commission Attorney, Kogovsek. Then the Commission closes the public hearing. Finally, the Commission may motion to recommend approval or denial of the application to City Council.

MEETING CALLED TO ORDER

The meeting was called to order at 3:30 p.m. with Commissioner Castellucci presiding.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Alexandra Aznar, Lisa Bailey, Sarah Martinez, and Christopher Pasternak

Commissioners Absent: None

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Bart Mikitowicz, Sr. Planner, and Joe Martellaro, Associate Engineer II.

APPROVAL OF THE AGENDA: Spinuzzi moved to approve the October 12, 2022, agenda Commission Public Hearing. Motion was seconded by Aznar. Motion passed 6-0, (Bailey Absent)

PUBLIC HEARING AND ACTION

REGULAR AGENDA

1a. Z-22-05 **Rezoning** Cottages at Park West, Parcel 515064010 - Lot 2, Block 1 Park West Business Campus Filing No. 9 Formerly #05-150-64-007: approximately 28.35 acres generally located East of Pueblo Blvd and South of E. Spaulding Ave from Highway and Arterial (B-3) Zone District to Multiple Residential and Office (R-5) Zone District. Staff report by Bart Mikitowicz, Senior Planner. *Continued from the September 14, 2022, hearing.*

Public Hearing:

- Applicant, Nichole Schanel, Matrix Design Group, was sworn in by City Attorney Kogovsek and testified in support of the application.

Commission Action: Bailey moved to recommend approval to City Council, Second by Avalos

Motion Passed: 7-0

1b. S-22-03 **Subdivision:** Cottages at Park West, subdivision of 28.35 acres into 194 single-family and duplex residential lots. Generally located East of Pueblo Blvd and South of E. Spaulding Ave -Staff Report by Beritt Odom, Principal Planner *Continued from the September 14, 2022, hearing*

Public Hearing:

- Applicant, Nichole Schanel, Matrix Design Group, testified in support of the application.

Commission Action: Bailey moved to recommend approval to City Council, with three staff conditions noted in the staff report. Second by Aznar.

Motion Passed: 7-0

1c. SAP-22-01 **Special Area Plan:** Cottages at Park West. Requesting approval for a Special Area Plan to coincide with the Subdivision and Rezoning of approximately 28.35 acres generally located East of Pueblo Blvd and South of E. Spaulding Ave. Staff report by Bart Mikitowicz, Senior Planner. *Continued from the September 14, 2022, hearing.*

Public Hearing:

- Applicant, Nichole Schanel, Matrix Design Group, testified in support of the application.

Commission Action: Bailey moved to recommend approval to City Council with one staff condition noted in the staff report. Second by Aznar.

Motion Passed: 7-0

Approval of Minutes: September 14, 2022

Bailey moved to approve the minutes. Second by Avalos.

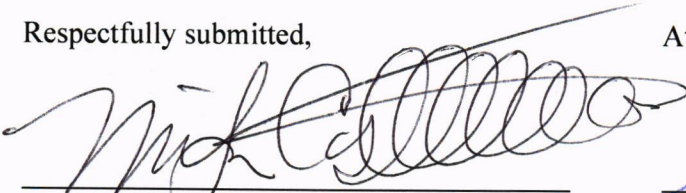
Motion passed: 7-0

Old/New Business: None

There being no further business the Regular Meeting was adjourned at 4:32 p.m.

Respectfully submitted,

Attest:

A handwritten signature in black ink, appearing to read "Mike Castellucci", written over a horizontal line.

Mike Castellucci
Chairperson

A handwritten signature in blue ink, appearing to read "Scott Hobson", written over a horizontal line.

Scott Hobson
Executive Secretary

Digital recordings of all the meetings of the Planning and Zoning Commission are maintained and available for inspection and review during normal business hours (M – F, 8 a.m. – 5 p.m.) at the Department of Planning & Community Development, 211 East D Street, Pueblo, CO.



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$68,766.35 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 508 MINNEQUA AVE, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 508 Minnequa Ave.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

During routine inspection of sewer mains, the Wastewater Department collection crew discovered broken pipes and a collapsed pipe segment with 100% blockage in the main near 508 Minnequa Ave. In addition, the whole main was in bad shape and it was determined that the 6-inch main connected to the manhole needed to be replaced and upsized to 8-inch. These defects will further deteriorate the pipe, block the flow, and increase the chance of an immediate backup in the main. An emergency repair was necessary to repair the broken pipe and collapsed pipe segment, so a backup would not occur.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and Parker Excavating was the lowest bidder and accepted the work.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total: \$ 23,311.85 34%

Surface Improvement Related

Total: \$ 45,454.50 66 %

Grand Total: \$ 68,766.35 100%

FINANCIAL IMPLICATIONS:

Funding for this project came from the sanitary sewer rehabilitation budget funded by the Sewer User Fund. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-059 (WWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not approve the Resolution, but this would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 11-28-22 508 Minnequa Ave Emergency Point Repair

RESOLUTION NO. 15064

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$68,766.35 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 508 MINNEQUA AVE, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency sanitary sewer repair was authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code; and

WHEREAS, the point repair work was awarded to Parker Excavating, Inc., under the 2021-2023 multi-year point repair contract; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 508 Minnequa Ave with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$68,766.35.

SECTION 2.

Funds for Project 20-059 (WWAN03) shall be from the Sewer User Fund.

SECTION 3.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, a Municipal Corporation, and the City Clerk properly affixed the seal of the City thereto and attested the same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$36,542.35 are hereby ratified.

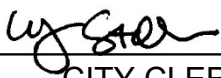
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					508 Minnequa Ave Estimate		
Date: 8/29/2022					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	135	\$ 17,955.00	\$ 43,740.00	\$ 13,230.00
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	160	\$ 10,400.00	\$ 9,920.00	\$ 11,840.00
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA	1		\$ 4,000.00	\$ 6,100.00	\$ 4,340.00
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA	3		\$ 900.00	\$ 450.00	\$ 1,164.00
24	Mobilization	LS	1		\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 34,755.00	\$ 61,960.00	\$ 32,224.00
With Contingency					\$ 41,706.00	\$ 74,352.00	\$ 38,668.80

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 11/11/2022 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
508 Minnequa Ave

Contractor : PARKER EXCAVATING INC.
1428 Stockyard Rd., Pueblo, CO 81001

You are hereby requested to comply with the following changes from the plans & specifications:

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>100LF)	(\$13,230.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (>100LF)		\$33,614.50
4	REINSTATE SERVICES	(\$776.00)	
6	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<100LF)		\$10,580.00
7	T&M - RELAY PIPE TO TIE IN DUE TO GRADE NOT BEING CORRECT - LABOR AND EQUIPMENT		\$5,279.76
8	TRAFFIC CONTROL		\$1,074.09
TOTAL (Decrease) / Increase		(\$14,006.00)	\$50,548.35

Net Adjustment This Change Order	\$	36,542.35
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	32,224.00
Total Adjusted Contract Amount To Date	\$	68,766.35

Reason For Change: Actual Field Quantities.

The time provided for completion of the contract is changed by 0 calendar days.
This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

Accepted by: _____ Date: _____
Contractor's Representative

If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
508 Minnequa Ave





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$5,857.22 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2232 SPRUCE ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 2232 Spruce St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

During routine inspection of sewer mains, the Wastewater Department collection crew discovered a large joint offset and a pipe segment with 80% sag in the main located to the east of 2232 Spruce Street. These defects will further deteriorate the pipe, block the flow, and increase the chance of an immediate backup in the main. An emergency repair was necessary to repair the joint offset and the sag.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and Parker Excavating was the lowest bidder and accepted the work.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

<i>Total:</i>	\$	3,957.22	68%
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Surface Improvement Related

<i>Total:</i>	\$	1,900.00	32 %
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<i>Grand Total:</i>	\$	5,857.22	100%
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FINANCIAL IMPLICATIONS:

Funding for this project came from the sanitary sewer rehabilitation budget funded by the Sewer User Fund. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-059 (WWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Not approve the Resolution, but this would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 11-28-22 2232 Spruce St Emergency Point Repair

RESOLUTION NO. 15065

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$5,857.22 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2232 SPRUCE ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency sanitary sewer repair was authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code; and

WHEREAS, the point repair work was awarded to Parker Excavating, Inc., under the 2021-2023 multi-year point repair contract; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 2232 Spruce St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$5,857.22.

SECTION 2.

Funds for Project 20-059 (WWAN03) shall be from the Sewer User Fund.

SECTION 3.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, a Municipal Corporation, and the City Clerk properly affixed the seal of the City thereto and attested the same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract are hereby ratified.

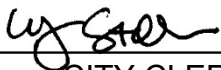
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					2232 Spruce St Estimate		
Date: 8/30/2022					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF	20	\$ 3,800.00	\$ 7,300.00	\$ 2,500.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF	40	\$ 2,800.00	\$ 2,600.00	\$ 3,000.00
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA		1	\$ 300.00	\$ 150.00	\$ 388.00
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 8,400.00	\$ 11,800.00	\$ 7,538.00
				With Contingency	\$ 10,080.00	\$ 14,160.00	\$ 9,045.60

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 11/8/2022 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
2232 Spruce St

Contractor : PARKER EXCAVATING INC.
1428 Stockyard Rd., Pueblo, CO 81001

You are hereby requested to comply with the following changes from the plans & specifications:

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP	(\$500.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (21-100LF)	(\$3,000.00)	
3	REINSTATE SERVICES	(\$388.00)	
5	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (1-20LF)		\$1,900.00
6	TRAFFIC CONTROL		\$307.22
TOTAL (Decrease) / Increase		(\$3,888.00)	\$2,207.22

Net Adjustment This Change Order	\$	(1,680.78)
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	7,538.00
Total Adjusted Contract Amount To Date	\$	5,857.22

Reason For Change: Actual Field Quantities.

The time provided for completion of the contract is changed by 0 calendar days.
This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

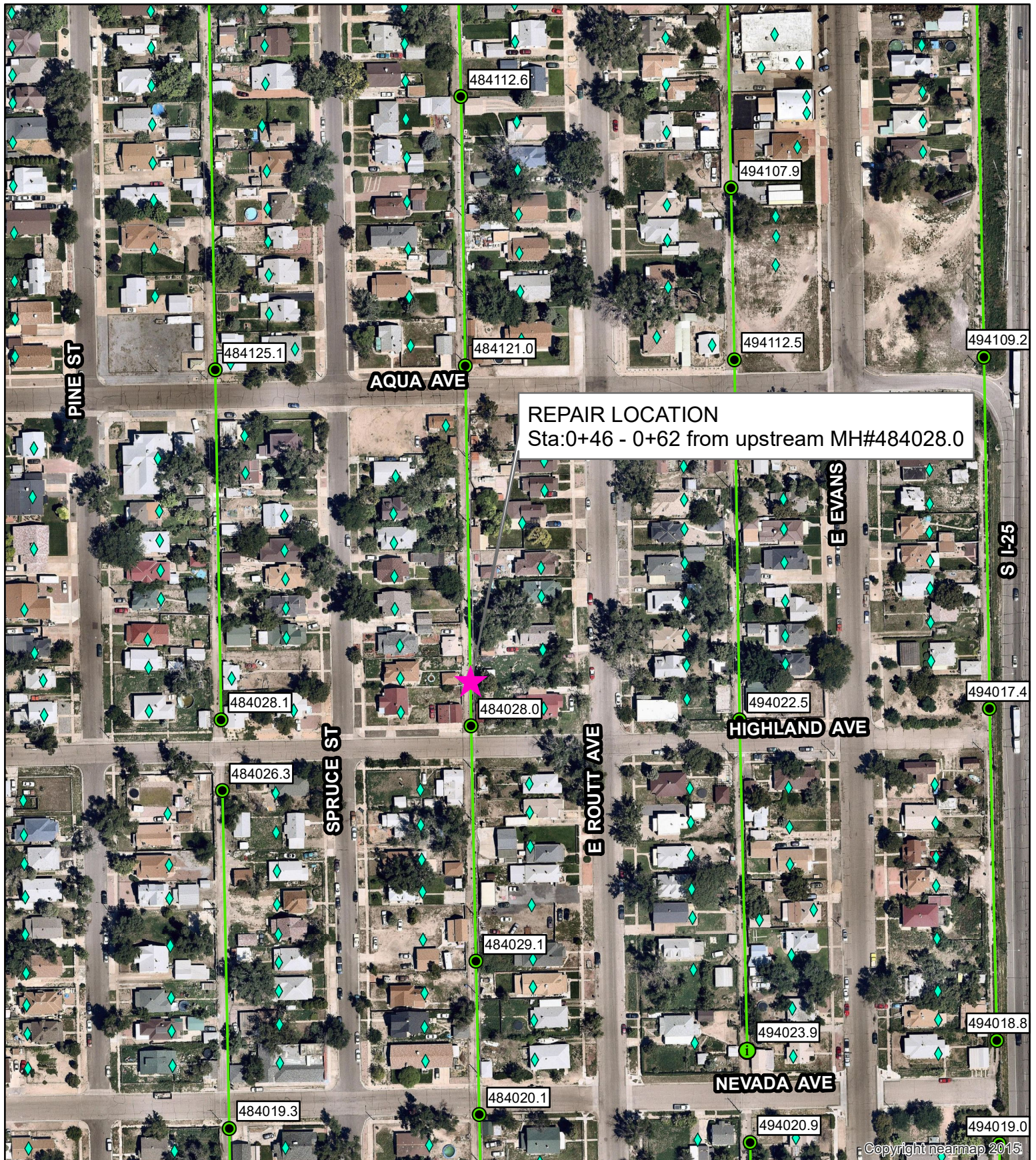
Accepted by: _____ Date: _____
Contractor's Representative

If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
2232 Spruce St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$197,590.55 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2024 SPRUCE ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 2024 Spruce St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

On August 8, 2022, the homeowner of 2024 Spruce Street notified the Wastewater Department that they had backup and drain issues, the one most recently over the weekend. A television crew was sent out to televise the sewer main and they discovered that the whole line was in a very bad shape and there were several areas with sags, broken pipe segments, holes, voids and fractures. These defects will further deteriorate the pipe, block the flow and increase the chance of collapse and immediate backup in the main. An emergency repair was necessary to repair the sags and broken pipes, so a backup would not occur.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and Parker Excavating was the lowest bidder and accepted the work.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

<i>Total:</i>	\$	63,206.55	32%
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Surface Improvement Related

<i>Total:</i>	\$	134,384.00	68 %
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<i>Grand Total:</i>	\$	197,590.55	100%
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FINANCIAL IMPLICATIONS:

Funding for this project came from the sanitary sewer rehabilitation budget funded by the Sewer User Fund. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-059 (WWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Not approve the Resolution, but this would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 11-28-22 2024 Spruce St Emergency Point Repair

RESOLUTION NO. 15066

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$197,590.55 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2024 SPRUCE ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency sanitary sewer repair was authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code; and

WHEREAS, the point repair work was awarded to Parker Excavating, Inc., under the 2021-2023 multi-year point repair contract; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 2024 Spruce St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$197,590.55.

SECTION 2.

Funds for Project 20-059 (WWAN03) shall be from the Sewer User Fund.

SECTION 3.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, a Municipal Corporation, and the City Clerk properly affixed the seal of the City thereto and attested the same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to effectuate the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$100,064.55 are hereby ratified.

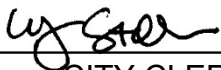
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					2024 Spruce St Estimate		
Date: 8/18/2022					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	460	\$ 61,180.00	\$ 149,040.00	\$ 45,080.00
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	480	\$ 31,200.00	\$ 29,760.00	\$ 35,520.00
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA		2	\$ 8,000.00	\$ 12,200.00	\$ 8,680.00
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA		17	\$ 5,100.00	\$ 2,550.00	\$ 6,596.00
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 106,980.00	\$ 195,300.00	\$ 97,526.00
With Contingency					\$ 128,376.00	\$ 234,360.00	\$ 117,031.20

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 11/10/2022 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
2024 Spruce St

Contractor : PARKER EXCAVATING INC.
1428 Stockyard Rd., Pueblo, CO 81001

You are hereby requested to comply with the following changes from the plans & specifications:

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>100LF)	(\$588.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (>100LF)		\$98,864.00
4	REINSTATE SERVICES	(\$388.00)	
6	TRAFFIC CONTROL		\$2,176.55
TOTAL (Decrease) / Increase		(\$976.00)	\$101,040.55

Net Adjustment This Change Order	\$	100,064.55
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	97,526.00
Total Adjusted Contract Amount To Date	\$	197,590.55

Reason For Change: Actual Field Quantities.

The time provided for completion of the contract is changed by 0 calendar days.
This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

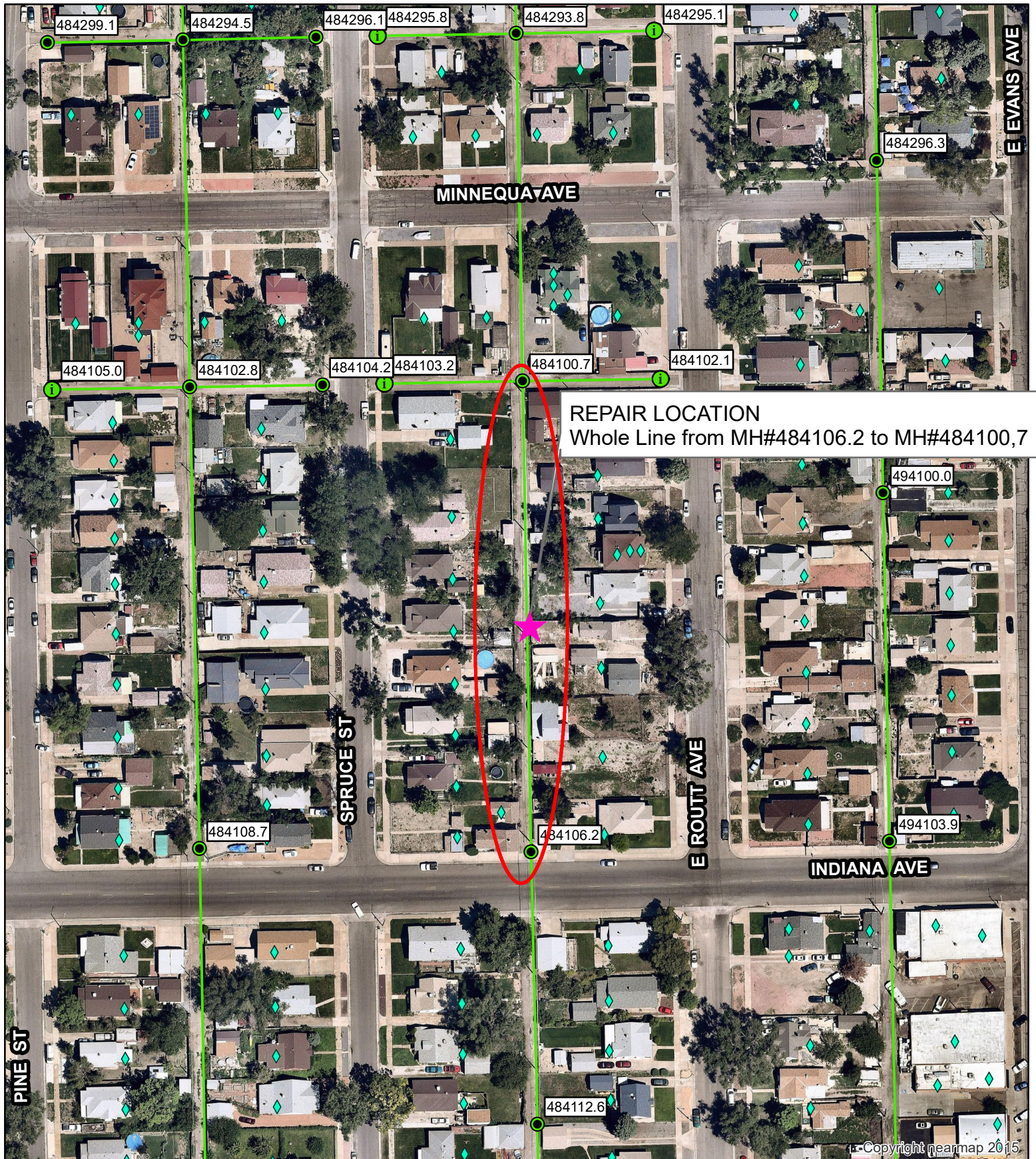
Accepted by: _____ Date: _____
Contractor's Representative

If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
2024 Spruce St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$136,582 TO DOUG VAUGHN, LLC., A LIMITED LIABILITY COMPANY, FOR PROJECT NO. 22-091, CONCRETE IMPROVEMENTS - JOPLIN, SETTING FORTH \$23,418 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Doug Vaughn, LLC., a Limited Liability Company, for 22-091, Concrete Improvements - Joplin.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Provide concrete improvements to Joplin Avenue from 4th Street to Portland Avenue. This project includes ADA Curb Ramp upgrades, sidewalk repairs, crossspan replacement, and asphalt patching. The Resolution awards the construction contract to Doug Vaughn, LLC., a Limited Liability Company.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$160,000 will be paid from account CI2204 Street Rehabilitation Project.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 22-091 Bid Summary Concrete Improvements-Joplin

RESOLUTION NO. 15067

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$136,582 TO DOUG VAUGHN, LLC., A LIMITED LIABILITY COMPANY, FOR PROJECT NO. 22-091, CONCRETE IMPROVEMENTS - JOPLIN, SETTING FORTH \$23,418 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 22-091, Concrete Improvements - Joplin, have been received and examined; and

WHEREAS, the proposal of Doug Vaughn, LLC., a Limited Liability Company, was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 22-091, Concrete Improvements - Joplin to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Project No. 22-091, Concrete Improvements - Joplin, to be performed and the contract for said project is hereby awarded to Doug Vaughn, LLC., a Limited Liability Company, in the amount of \$136,582.00.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 3.

In addition to the amount of the bid set forth, as aforementioned, an additional amount as stipulated in this section is hereby established for contingencies and additional work.

Contingencies and Additional Work.....\$23,418

SECTION 4.

Funds for Project 20-091 (including contingencies and additional work) shall be from Project No. CI2204, Street Rehabilitation Project..

SECTION 5.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

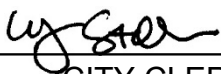
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



City of Pueblo
Purchasing

Naomi Hedden, Director
230 S. Mechanic St., Pueblo, CO 81003

EVALUATION TABULATION

IFB No. 22-091 (CI2204)

Concrete Improvements - Joplin

RESPONSE DEADLINE: November 16, 2022 at 10:00 am

Report Generated: Wednesday, November 16, 2022

SELECTED VENDOR TOTALS

Vendor	Total
Doug Vaughn, LLC	\$136,582.00
Flat and Fancy	\$159,728.70
JARCCO Construction LLC	\$228,774.00

TABLE 1

					Doug Vaughn, LLC		Flat and Fancy		JARCCO Construction LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Brick Pavers	90	SF	\$3.00	\$270.00	\$3.00	\$270.00	\$5.00	\$450.00
X	2	Remove Asphalt	2397	SF	\$3.00	\$7,191.00	\$3.00	\$7,191.00	\$4.00	\$9,588.00
X	3	Remove Curb and Gutter	734	LF	\$4.00	\$2,936.00	\$4.90	\$3,596.60	\$16.00	\$11,744.00
X	4	Remove Concrete	2922	SF	\$2.00	\$5,844.00	\$3.50	\$10,227.00	\$3.50	\$10,227.00

EVALUATION TABULATION
IFB No. 22-091 (CI2204)
Concrete Improvements - Joplin

Selected	Line Item	Description	Quantity	Unit of Measure	Doug Vaughn, LLC		Flat and Fancy		JARCCO Construction LLC	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	5	Remove 7" Reinforced Concrete	2530	SF	\$3.00	\$7,590.00	\$3.75	\$9,487.50	\$4.50	\$11,385.00
X	6	Construct Curb Head	505	LF	\$17.00	\$8,585.00	\$18.86	\$9,524.30	\$39.00	\$19,695.00
X	7	Construct Curb and Gutter	774	LF	\$27.00	\$20,898.00	\$26.00	\$20,124.00	\$45.00	\$34,830.00
X	8	Construct 4" Concrete	1416	SF	\$5.50	\$7,788.00	\$5.30	\$7,504.80	\$10.00	\$14,160.00
X	9	Construct 6" Concrete	2018	SF	\$6.00	\$12,108.00	\$5.75	\$11,603.50	\$11.00	\$22,198.00
X	10	Construct 7" Reinforced Concrete	2530	SF	\$9.50	\$24,035.00	\$15.00	\$37,950.00	\$12.50	\$31,625.00
X	11	Construct 2" Asphalt Patch	26	SF	\$5.50	\$143.00	\$10.00	\$260.00	\$9.00	\$234.00
X	12	Construct 6" Asphalt Patch	2328	SF	\$8.00	\$18,624.00	\$10.00	\$23,280.00	\$11.00	\$25,608.00
X	13	Install 24" x 30" Tactile Bands	64	EA	\$145.00	\$9,280.00	\$125.00	\$8,000.00	\$250.00	\$16,000.00
X	14	Subgrade Stabilization	22	Ton	\$45.00	\$990.00	\$55.00	\$1,210.00	\$115.00	\$2,530.00
X	15	Mobilization	1	LS	\$4,000.00	\$4,000.00	\$7,500.00	\$7,500.00	\$7,500.00	\$7,500.00
X	16	Traffic Control	1	LS	\$6,000.00	\$6,000.00	\$1,500.00	\$1,500.00	\$7,500.00	\$7,500.00

EVALUATION TABULATION
IFB No. 22-091 (CI2204)
Concrete Improvements - Joplin

Selected	Line Item	Description	Quantity	Unit of Measure	Doug Vaughn, LLC		Flat and Fancy		JARCCO Construction LLC	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	17	Erosion and Sediment Control (Stormwater BMPs)	1	LS	\$300.00	\$300.00	\$500.00	\$500.00	\$3,500.00	\$3,500.00
Total						\$136,582.00		\$159,728.70		\$228,774.00

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	Doug Vaughn, LLC	Flat and Fancy	JARCCO Construction LLC	Greatland Concrete & Landscaping INC (Disqualified)
BID GUARANTEE	Pass	Pass	Pass	Fail
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass	Pass
NAME AND TITLE	Pass	Pass	Pass	Pass
ACKNOWLEDGEMENTS	No Response	No Response	No Response	No Response
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass	Pass	Pass
Has/is this firm or any officer or partner of this firm:	No Response	No Response	No Response	No Response

EVALUATION TABULATION
 IFB No. 22-091 (CI2204)
 Concrete Improvements - Joplin

Question Title	Doug Vaughn, LLC	Flat and Fancy	JARCCO Construction LLC	Greatland Concrete & Landscaping INC (Disqualified)
Convicted of a criminal offense	Pass	Pass	Pass	Pass
Convicted under state or federal statutes	Pass	Pass	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass	Pass	Pass
Failed to perform	Pass	Pass	Pass	Pass
Suspension or Debarment	Pass	Pass	Pass	Pass
Unqualified	Pass	Pass	Pass	Pass
Unlicensed	Pass	Pass	Pass	Pass
Delinquent	Pass	Pass	Pass	Pass
Confirmation	Pass	Pass	Pass	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AWARDING AN AGREEMENT FOR ARCHITECTURAL CONSULTING SERVICES IN THE AMOUNT OF \$90,800 TO EV STUDIO, LLC., A LIMITED LIABILITY COMPANY, FOR 22-057 EL CENTRO DEL QUINTO SOL RECREATION CENTER RENOVATION, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards an agreement for architectural consulting services to EV Studio, LLC., a Limited Liability Company, for 22-057 - El Centro Del Quinto Sol Recreation Center Renovation.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. C12113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City of Pueblo from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 03, 2021, until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The City of Pueblo solicited proposals for architectural and consulting services for the remodel/renovation at the City's El Centro Del Quinto Sol Recreation Center. The project includes HVAC upgrades, partial basement remodel, and emergency exit stairs renovation. The remodeling of the basement includes the kitchen and restroom facilities. The kitchen will be remodeled in order to be better utilized for cooking classes and will include new floors, renovating of the walls and ceiling, and new appliances. The entire building's HVAC system needs to be designed for these renovations. The emergency exit stairway renovation includes upgrading the emergency exit stairs to meet current code requirements, including tread and rise regulations.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$90,800 will be paid from account CI2113, ARPA Funds.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel this project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Draft Contract EV Studios - Architectural Consulting for El Centro

RESOLUTION NO. 15068

A RESOLUTION AWARDING AN AGREEMENT FOR ARCHITECTURAL CONSULTING SERVICES IN THE AMOUNT OF \$90,800 TO EV STUDIO, LLC., A LIMITED LIABILITY COMPANY, FOR 22-057 EL CENTRO DEL QUINTO SOL RECREATION CENTER RENOVATION, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, proposals for Project No. 22-057, Architectural Consulting Services for El Centro Del Quinto Sol Recreation Center have been received and examined; and

WHEREAS, the proposal of Doug Vaughn, LLC., a Limited Liability Company, was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 22-091, Concrete Improvements - Joplin to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Project No. 22-057 Architectural Consulting Services for El Centro Del Quinto Sol Recreation Center to be performed, and a contract for said project is hereby awarded to EV Studio, LLC, a Limited Liability Company, in the amount of \$90,800.00.

SECTION 2.

Funds for said Agreement shall be CI2113 - ARPA Funds.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

The officers of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

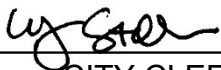
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



BID 22-057

ARCHITECTURAL CONSULTING SERVICES FOR EL CENTRO DEL
QUINTO SOL RECREATION CENTER

**AGREEMENT FOR PROFESSIONAL ARCHITECTURAL
SERVICES BY AND BETWEEN CITY OF PUEBLO
AND EV STUDIO, LLC**

Agreement reviewed and accepted by EV Studio:
_____ (Please initial and date)

AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES BY AND BETWEEN CITY OF PUEBLO AND EV STUDIO, LLC

THIS AGREEMENT ("Agreement") made and entered this _____ day of December, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "Owner" or "City") and EV Studio, LLC, a Colorado registered Limited Liability Company, (hereinafter referred to as "Architect") a professional architectural firm, for Architect to render certain professional planning, design, architectural, and related services for Owner in connection with Bid 22-057 Architectural Consulting Services for El Centro Del Quinto Sol Recreation Center, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1

Architect shall satisfactorily perform professional architectural services for the following items:

- ☐ - Study and Report Phase
- ☒ - Preliminary Design (Schematic) Phase
- ☒ - Final Design Phase
- ☒ - Construction Documents for Bidding Phase
- ☒ - Bidding Phase
- ☒ - Architect of Record for Construction

Upon completion of any phase, Architect shall not proceed with work on the next phase, if any, until authorized in writing by Owner to proceed therewith.

Such services shall include all usual and customary professional architectural services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical, engineering, design, environmental, and planning services. Architect shall also provide any landscape, surveying, and geotechnical services incidental to its work on the Project.

1.2

In performing the professional services, Architect shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Architect is to render professional services.

1.3

Professional architectural services (whether furnished directly or through a professional subcontractor) shall be performed under the direction and supervision of a registered architect in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered architect.

1.4

Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5

Any engineering services provided under this Agreement shall be performed under the direction and supervision of a registered professional engineer.

SECTION 2. ARCHITECTURAL SERVICES

2.1 Study and Report Phase.

If Architect is to provide professional services with respect to the Project during the Study and Report Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

- A. Consult with Owner to determine the requirements for the Project and review available data.
- B. Advise Owner as to the necessity of providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.
- C. Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
- D. Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.
- E. Provide general economic analysis of Owner's requirements applicable to various alternatives.
- F. Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Architect's findings and recommendations with opinions of probable costs.
- G. Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design (Schematic) Phase.

If Architect is to provide professional services with respect to the Project during the Preliminary Design Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

- A. Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study or report on the Project.
- B. Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.

- C. Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.
- D. Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.
- E. Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.
- F. Architect shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase.

If Architect is to provide professional services with respect to the Project during the Final Design Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

- A. After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent, and character of the work to be performed by contractors, and specifications describing such work and the requirement therefor. Such plans and specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including drawings and specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Architect shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR Part 36 Standards.
- B. Make reasonable revisions to the drawings and specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.
- C. Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.
- D. Based upon Architect's best professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.
- E. Architect shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Construction Documents for Bidding Phase.

If Architect is to provide professional services with respect to the Project during the Construction Documents for Bidding Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

- A. Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms, invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Architect shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.
- B. After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any addenda which may be required or appropriate to correct errors, clarify drawings or specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.
- C. Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

2.5 Bidding Phase.

If Architect is to provide professional services with respect to the Project during the Bidding Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

- A. Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Architect in writing to all plan holders.
- B. Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Architect's advice.

2.6 Architect of Record for Construction.

If Architect is to provide professional services with respect to the Project during the Architect of Record for Construction, after award by the Owner of a general contractor contracts for construction of the Project, Architect shall perform the following unless otherwise stated in Schedule 1:

- A. Perform all duties and functions to be performed by Architect under the terms of the construction contract.

- B. Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Architect's obligation concerning level of observation.
- C. Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.
- D. Promptly advise the Owner in writing of any omissions, substitutions, defects, or deficiencies noted in the work of any contractor, subcontractor, supplier, or vendor on the Project.
- E. Reject any work on the Project that does not conform to the contract documents.
- F. On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.
- G. Review shop drawings, samples, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.
- H. Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Architect's representation to Owner that it has inspected the Project and that to the best of its knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.
- I. Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.
- J. Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.
- K. On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.
- L. The Architect shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of the Owner or Contractor, the Architect shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work on the Project. The interpretations and

decisions of the Architect shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Architect's interpretation or decision, file its written objections thereto with the Architect and Contractor.

2.7 Additional Responsibilities.

This paragraph applies to all phases of Architect's work.

- A. Architect shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Architect's work, including that performed by Architect's consultants and subcontractors, and including designs, drawings, specifications, reports, and other services, irrespective of Owner's approval or acquiescence to same. Architect shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its work.
- B. Architect shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Architect's negligent act or omission; except that Architect hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.
- C. Architect's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.
- D. Architect shall be completely responsible for the safety of Architect's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Architect's employees.
- E. Architect acknowledges that, due to the nature of architectural, design, and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Architect assigns principal responsibility for services performed under this Agreement. Consequently, Architect represents that Architect has selected and intends to employ or assign the key personnel and consultants identified in Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner shall have the right to object in writing to employment on the Project of any such key person, consultant, or assignment of principal responsibility, in which case Architect will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Architect shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

1. Within five (5) days of execution of this Agreement, Architect shall designate in writing a Project representative who shall have complete authority to bind Architect, and to whom Owner should address communications.
- F. Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Architect shall submit to Owner for approval a schedule showing the order in which Architect proposes to accomplish its work, with dates on which it will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Architect will not be responsible for delays beyond its control. The Schedule shall not be materially different than the Project Schedule attached hereto and labelled Schedule 3.
- G. Before undertaking any work which Architect considers beyond or in addition to the scope of work and services which Architect has contractually agreed to perform under the terms of this Agreement, Architect shall advise Owner in writing (i) that Architect considers the work beyond the scope of this Agreement, (ii) the reasons the Architect believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Architect shall not proceed with such out of scope or additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Architect shall be compensated for its direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

- A. Designate a representative to whom all communications from Architect shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.
- B. Advise Architect of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.
- C. Provide Architect with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.
- D. Assist in arranging for Architect to have access to enter private and public property as required for Architect to perform its services.

- E. Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Architect, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve the Architect of responsibility for the professional adequacy of its work. The Owner's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- F. Upon advice of the necessity to do so from Architect, obtain required approvals and permits for the Project. The Architect shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.
- G. Notify Architect whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Architect's services.
- H. Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of 45 days shall be presumed reasonable for Owner to act with respect to any matter involving policy or significant financial impact.

SECTION 4. TIME FOR PERFORMANCE

Architect's obligation to render services shall continue for such period of time as may reasonably be required for completion of the work contemplated in Schedule 1 – "Scope of Services" and Section 2 of this Agreement.

SECTION 5. PAYMENT

5.1

Owner will pay to Architect as full compensation for all services required to be performed by Architect under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed \$90,800.00 in the aggregate as forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In addition, the maximum amount of compensation for any phase shall not exceed the amount specified in Schedule 2 for such phase.

5.2

Architect shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been performed and expenses incurred. Thereafter, Owner shall pay Architect for the amount of the application within 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Architect's services on the Project phases for which this

Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Architect submittals have been provided.

5.3

The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4

No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

5.5

No compensation shall be paid to Architect for services required and expenditures incurred in correcting Architect's mistakes or negligence.

5.6

Compensation for authorized work beyond the scope of this Agreement shall be governed by Section 2.6(g).

SECTION 6. TERMINATION

6.1

Owner reserves the right to terminate this Agreement and Architect's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Architect and its subcontractors shall cease all work and stop incurring expenses and shall promptly deliver to Owner all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Architect may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2

Upon termination of this Agreement for events or reasons not the fault of Architect, Architect shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Architect or Owner. In no event shall payment to Architect upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

6.3

In the event termination of this Agreement or Architect's services is for breach of this Agreement by Architect, or for other fault of Architect including but not limited to any failure to timely proceed with work, or to pay its employees and Architects, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Owner's Project Representative, then

in that event, Architect's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Owner, or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4

Architect's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. REQUIRED FEDERAL OR STATE PROVISIONS

7.1 Architect understands that Owner may be funding this project in whole or part with funds provided by the American Rescue Plan Act of 2021, Coronavirus State and Local Fiscal Recovery Funds (SLFRF Program). Architect agrees it is subject to and shall comply with all applicable provisions of Title 2 CFR Part 200 under which this Agreement has been made and other applicable regulations.

7.2 Architect shall comply with the attached Special Funding Contract Requirements, attached hereto and incorporated herein as Schedule 5, and any/all other Federal, State, and local laws applicable to its activities.

7.3 All records with respect to any matters covered by this Agreement shall be available for inspection by Owner, the U.S. Treasury Department, or any other Federal or State fund auditing agencies regarding use of ARPA funds at any time during normal business hours and as often as agencies deem necessary, to audit, examine and make excerpts or transcripts of relevant information, and otherwise to perform its official functions or duties.

SECTION 8. GENERAL PROVISIONS

8.1

- A. Ownership of Documents. All designs, drawings, specifications, technical data, and other documents or instruments procured or produced by the Architect in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Architect agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Architect, Owner shall hold harmless Architect from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.
- B. Advertising. Unless specifically approved in advance in writing by Owner, Architect shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Architect's employees. If Architect wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials

to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

8.2 Insurance and Indemnity.

- A. Architect agrees that it has procured and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph 7.2(b) below.
- B. The minimum insurance coverage which Architect shall obtain and keep in force is as follows:
 - 1. Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed.
 - 2. Commercial General Liability Insurance. The Architect shall secure and maintain during the period of this agreement and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the Architect with respect to all work performed by it and all its subcontractors under the agreement, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than \$1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and \$1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Architect under the provisions of the agreement, and "Completed Operations and Projects Liability" coverage.
 - 3. Professional Liability Insurance with coverage of not less than \$1,000,000 and in a form and with a deductible acceptable to owner.
 - 4. Comprehensive Automobile Liability Insurance. The Architect shall procure and maintain during the period of the agreement and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than \$350,000 and for any injury to two or more persons in any single occurrence of not less than \$1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Architect from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes and similar equipment whether owned, leased, hired or used by Architect.

- C. Architect agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Architect, his employees, subcontractors, and consultants.

8.3 Notices.

Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either the Owner or the Architect by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the Owner at City of Pueblo, Department of Public Works, Attn: Andrew Hayes, 211 E. D Street, Pueblo, CO, 81003 or to the Architect at EV Studio, LLC, Attn: Brian Welch, Principal, 5335 West 48th Ave., Denver, CO, 80212. Either party may change their business address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

8.4 Entire Agreement.

This instrument contains the entire agreement between the Owner and the Architect respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Architect in relation thereto not expressly set forth in this instrument are null and void. Notwithstanding the foregoing, the terms of Bid 22-057 Architectural Consulting Services for El Centro Del Quinto Sol Recreation Center are incorporated herein, and Architect agrees to abide by and comply with the same. In the event of any conflict between any provision of this Agreement and a provision of any Schedule or attachment to this Agreement, the provision in this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

8.5 Successors and Assigns.

This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Architect may be assigned by it without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

8.6 Amendments.

No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representative of both Architect and by Owner.

8.7 Choice of Law and Venue.

This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in a state court with jurisdiction located in Pueblo County, Colorado.

8.8 Equal Employment Opportunity.

In connection with the performance of this Agreement, Architect shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, or age. Architect shall endeavor to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, national origin, disability, or age.

8.9 Severability.

If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

8.10 Appropriations.

Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if work is phased and subject to annual appropriation, funds only in the amount of initial appropriation are available and Architect shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

8.11 Access to Property Not Under Owner's Control.

Architect acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Architect and Architect's employees and consultants shall, at Architect's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Architect in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Architect understands and agrees that entry to properties not under Owner's control may require Architect to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 9. DISPUTES

9.1

Any dispute or disagreement between Architect and Owner arising from or relating to this Agreement or Architect's services or right to payment hereunder shall be determined and decided by the Owner's Director Public Works whose written decision shall be final and binding unless judicial review is sought in

a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

9.2

Pending resolution of any dispute or disagreement, or judicial review, Architect shall proceed diligently with performance of its work under this Agreement.

SECTION 10. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:

Schedule 1 - "Scope of Services" consisting of 2 pages.

Schedule 2 - "Fee Schedule" consisting of 1 page.

Schedule 3 - "Project Schedule" consisting of 1 page.

Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 6 pages.

Schedule 5 - "Special Funding Contract Requirements for City of Pueblo" consisting of 7 pages.

SECTION 11. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Architect therefore, will use its best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 12. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986.

Architect certifies that it has complied with the United States Immigration Reform and Control Act of 1986. Architect represents and warrants that to the extent required by said Act, all persons employed by Architect for performance of this Agreement have completed and signed Form I-9 verifying their identities and authorization for employment.

SECTION 13. ELECTRONIC SIGNATURE

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

This Agreement, together with all Project Documents incorporated by reference , constitutes the entire Agreement between City and Contractor with respect to their subject matter, and may not be amended a modified except by written document signed by both parties.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

EV STUDIO, LLC

By _____
Naomi Hedden, Director of Purchasing

By _____
Brian Welch, Principal

Attest _____
Marisa Stoller, City Clerk

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Alexandria Romero, Finance Director

APPROVED AS TO FORM

Dan Kogovsek, City Attorney

Attachments: Schedule 1 - Scope of Services
Schedule 2 - Fee Schedule
Schedule 3 - Project Schedule
Schedule 4 - Identification of Personnel, Subcontractors, and Task Responsibility
Schedule 5 – Special Funding Contract Requirements for City of Pueblo
Additional Information For Agreement

SCHEDULE 1

Scope of Services

Excerpt from Request for Proposal dated September 1, 2022, Section 2

3.2 Scope of Service

All designs shall be compliant with International Existing Building Code and local building codes as necessary for Structure, Mechanical, Electrical, and Plumbing.

3.2.1 Preliminary Design (Schematic) Phase

- Provide City with a preliminary renovation/remodel design
- Hold a kick-off meeting with appropriate City staff to discuss project approach and design criteria
- Work with City stakeholders to make any necessary design revisions
- Include a detailed construction estimate
- City will evaluate at this phase to determine if project is feasible and within budget allowances
- Note: If project is deemed as unfeasible, City will only pay Consultant for this portion of the work. Additional work will not be authorized unless City is able to continue with the project.

3.2.2 Final Design Phase

- If the project is determined to continue after the Preliminary Design (Schematic) Phase, Consultant shall prepare final design documents in electronic format to the City
- Final design shall incorporate all required specifications for a complete and functional project in accordance with professional standards and ethics within the industry
- Final design/plans shall include demolition, elevations and cross sections, wall sections, necessary materials, fixtures, finishes, and any other plan/detail required for a complete project
- Final selection of materials, fixtures, and finishes must be coordinated with City
- Provide final construction estimate

3.2.3 Construction Documents for Bidding

- If the project is determined to continue after Final Design Phase, Consultant shall prepare the Construction Documents including plans and specifications for Bidding
- The final design must be stamped and shall be utilized for bidding, permitting, and construction of all renovation/remodel activities
- Submit plans to the City and Pueblo Regional Building Department for plan review and perform all required revisions to construction documents based on each reviewing agency and department comments
- Coordinate preparation of bid documents with Department of Public Works and Purchasing Department

- Assist City departments with any necessary meetings, addenda, etc.
- Digital project files shall be provided in both PDF and native formats (AutoCAD, Word, Excel, etc) prior to release of final payment

3.2.4 Bidding Phase

- If the project is determined to continue after Construction Documents for Bidding, Consultant shall assist the City as needed during the bidding phase
- The City will develop bidding materials including the Invitation to Bid documents, instructions to bidders, other necessary forms, and supplements required by the City as necessary to ensure that prospective bidders are fully informed regarding the construction and materials requirements
- Participate in a pre-bid meeting and walkthrough on site with interested contractors; interpret and clarify contract documents for bidders
- During the bidding period, the selected Consultant will assist the City with requests for information from bidders and coordinate with the City for responses and required modifications
- Note: Any approved modifications to the bidding documents will be issued by Addendum by the City.

3.2.5 Architect of Record for Construction

- Provide all customary services for Post Construction Award Services (PCAS) during construction
- Attend Pre-Construction Meeting with Contractor and Department of Public Works
- Respond to requests for information from Contractor, review Contractor submittals, and review Contractor applications for payment
- Review and approval of submittal and shop drawings
- The City does not expect the scope of the construction to warrant a continuous on-site presence; however, the selected firm should plan a minimum of weekly project progress meetings with the City and Contractor. Attendance at the weekly construction meetings may periodically be held virtual; however, in-person attendance will be required upon request.
- Additional meetings and/or site visits shall be requested by the Department of Public Works or Contractor on an as needed basis to review work progress
- For each meeting, generate a punch- list and certify that all work is being completed in accordance with contract documents
- Verify as-built drawings at end of the project and notate all approved field changes. As-built documents must be electronically updated in AutoCAD/Revit by the Consultant.
- Final as-built drawings shall be issued to the City for use on future projects subject to release of liability.

SCHEDULE 2

Fee Schedule

Excerpt from Proposer's Submittal dated September 29, 2022, Part 2

SECTION 2. PART 2 – PROPOSED RATES

2.1 Proposed Fee Schedules

Provide the Proposed Fee Schedule as a separate Submittal following instructions on page 2 of this RFQ. The Fee Schedule shall include all expenses incurred by the Consultant including all overhead and incidental expenses.

Provide a fee schedule for each phase of the project as outlined below:

- o **Preliminary Design (Schematic) Phase (Section 3.2.1)**
- o **Final Design Phase (Section 3.2.2)**
- o **Construction Documents for Bidding (Section 3.2.3)**
- o **Bidding Phase (Section 3.2.4)**
- o **Architect of Record for Construction (Section 3.2.5)**

Submit a grand total "not to exceed limit" for all services and phases listed in Section 3.

FEE SCHEDULE

Percent	Phase	Cost	Hours
25%	Preliminary Design	\$22,700	182 hrs
40%	Final Design	\$36,320	291 hrs
7%	CD's for Bidding	\$6,356	51 hrs
3%	Bidding Phase	\$2,724	22 hrs
25%	Construction Admin	\$22,700	182 hrs
NTE \$90,800			

Also attach standard hourly rates for all services offered by your company.
Note: Additional work includes any additional tasks added by the City and must be pre-approved in writing by Project Manager. City will not pay additional/hourly rates for services as already outlined in Section 3.

STANDARD HOURLY RATES

Principal	\$210/hr	Architectural Project Designer	\$120/hr
Director	\$180/hr	Project Engineer	
Project Manager	\$160/hr	Project Surveyor	
Licensed Architect		Interiors Project Designer	
Professional Engineer		Landscape Project Designer	
Interior Designer		Drafting Support	\$90/hr
Landscape Architect		Administrative Staff	\$65/hr
Professional Land Surveyor			



SCHEDULE 3

Project Schedule

Excerpt from Proposer's Submittal dated September 29, 2022, Part 1, Page 31

Provide a statement of your current workload.

Our team has the capacity to take on this project.

Proposer shall provide a detailed project timeline for the project objectives based upon the tasks outlined in the Scope of Service. (Please include number of calendar days for each phase of design.) The timeframe will become part of the Agreement and may be adjusted as agreed upon by both parties in writing. Note: Construction is anticipated to be bid and awarded to one (1) General Contractor.

As referenced in the previous section, our high-level approach to this schedule includes:

Preliminary Design - 4 weeks
~20 Business Days

Final Design - 6 weeks
~30 Business Days

Construction Documents for Bidding - 4 - 8 weeks
~ Pending City Process / Approvals

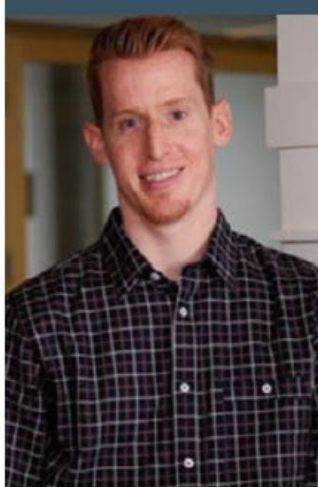
Construction Documents for Bidding - 4 - 8 weeks
~ Pending Contractor Process with the City

SCHEDULE 4

Identification of Personnel, Subcontractors, and Task Responsibility

Excerpt from Proposer's Submittal dated September 29, 2022, Part 1, Pages 10-15

303.670.7242 X 62 / JON.ANDERSON@EVSTUDIO.COM



JON ANDERSON, P.E.

CO-DIRECTOR OF MEP ENGINEERING

With over 16 years of experience in the field, Jon brings a seasoned eye to the EVstudio team as the MEP Engineering Co-Director. **As seen in his resume, he has extensive experience with public projects involving MEP upgrades and renovations. He would play a vital role leading this project, alongside Dane as your Project Manager.**

Graduating from California State Polytechnic University with a Bachelor of Science in Mechanical Engineering in 2009, he gives every project a unique approach for sustainable design and green building. He has experience with commissioning, controls upgrades, energy reports, plant metering, and other sustainable measures.

Living in Colorado for the last eight years, Jon understands how to evolve alongside local projects. He is a licensed P.E. in both Colorado and California, and has experience providing solutions in a variety of market segments. Jon's initiative in the workplace and expertise in the field make him an invaluable contributor to EVstudio's portfolio.

LICENSES

Licensed P.E. in Colorado,
California

ASHREA

EDUCATION

California State
Polytechnic University

FEATURED RELEVANT PROJECTS

Douglas County High School Renovations, Prostart Kitchen Renovations at Two High Schools -
Multiple Locations

Aims Community College Applied Technology and Trades Center & Hansen Building Renovation -
Greeley, CO

Arapahoe County Justice Center Long Range Master Plan Services - Arapahoe County, CO

Aims Community College, Welding Addition - Greeley, CO

Adams County Justice Center Buildout - Brighton, CO

Englewood Police Headquarters - Englewood, CO

CSPD Sand Creek Polic Substation - Colorado Springs, CO

CDHS Division of Youth Services Building Assessments - Colorado

DPS Summit Academy Renovation - Denver, CO

303.670.7242 X 10 / DANE.VIEROW@EVSTUDIO.COM



DANE VIEROW, RA, LEED AP BD+C

PROJECT MANAGER / POINT OF CONTACT IN DESIGN

Dane joined EVstudio in early 2018 after many successful years with traditional Architecture firms. Dane is a registered architect and holds a LEED AP BD+C accreditation and has managed/designed projects in Colorado, Illinois, Iowa, North Dakota, Wyoming, Montana, and Texas, to name a few.

As Project Manager, Dane is a client's primary point of contact and advocate from contract to CA. He is a licensed architect with vast commercial, TI, and with national experience, making him a perfect fit to oversee the management of a diverse portfolio such as EVstudio's.

The Project Manager position is vital to keep communication open and transparent, schedules on time, costs on track, and multiple disciplines aligned. While Dane focuses on managing the design of a project, our clients can focus on what is important: their business.

LICENSES

Licensed Architect in Colorado

LEED AP BD+C

EDUCATION

Iowa State University

FEATURED RELEVANT PROJECTS

GSA-NARA (National Archives and Records Administration) - Broomfield, CO
Prairie Stone Sports and Wellness Center - Hoffman Estates, IL
Montrose Recreation Center Addition - Montrose, CO
Greenwood Athletic and Tennis Club Remodel - Greenwood Village, CO
Center for the Arts Evergreen - Evergreen, CO
Dry Creek Business Park - Broomfield, CO
Entry Monument, The Aurora Highlands - Aurora, CO
Vicious Cycle Brewery - Fraser, CO
RidgeGate Station - Lone Tree, CO

303.670.7242 X 10 / SHANE.DONALSON@EVSTUDIO.COM



SHANE DONALSON, P.E.

PRINCIPAL / DIRECTOR OF MEP ENGINEERING

Shane's expansive career of MEP design experience has included projects of all types, ranging from small TI projects to large residential and commercial projects across the country. He has completed multiple LEED design projects, from LEED Certified to LEED Gold, and has mastered the ins and outs of their specific considerations.

Shane believes in working hand-in-hand with clients and architects early in the process, so mechanical and electrical systems can be incorporated into the design early, saving time and money.

As evident in his resume below, Shane is the ideal MEP team member to support the design of this project's kitchen space and bring an understanding of community center MEP design.

LICENSES

Licensed P.E. in CO, WY, TX,
UT, NV, and OK

EDUCATION

University of Oklahoma

FEATURED RELEVANT PROJECTS

Create Kitchen / Teaching Kitchen / Denver, CO
Bluebird Market Hall / Event Space and Kitchens / Silverthorne, CO
RidgeGate Station / 6 five-story residential buildings, 540 units / Lone Tree, CO
Sterling Ranch / Community Center / Littleton, CO
Sienna Cherry Creek Apartments / Apartments and Clubhouse / Denver, CO
Denver Pizzas / Kitchens and Restaurants / Denver, CO
Homestead Park Community Center / Clubhouse and Community / Elizabeth, CO
Nishi Sake Bar / Restaurant and Kitchen / Grand Junction, CO
Denver Pizzas / Pizza Kitchen and Restaurant / Grand Junction, CO
RidgeGate Station / 6 five-story buildings, 540 units / Lone Tree, CO
Boulder St Hotel / 39 Extended Stay Units / Denver, CO
La Vittoria / 150 Rental Apartment Units, 2 Buildings / Denver, CO

303.670.7242 X 62 / KATELYN@EVSTUDIO.COM



KATELYN WAGER, P.E.

STRUCTURAL ENGINEER / SENIOR ASSOCIATE

Katelyn leads the municipal and commercial division of EVstudio's structural engineering department. Katelyn has extensive experience in parks and recreation, municipal spaces, residential design, commercial design, and client management. She specializes in engineering for soils and has familiarity with soil pressure and support needed in various conditions, especially in Colorado. Concepts and foundations for projects in the mountains and community centers give her a great foundation to understanding this type of work.

Her others strengths lie in continually communicating with project stakeholders, ensuring timelines are met, and working through solutions when challenges arise. Katelyn enjoys building relationships with her clients by providing open and productive communication. Her favorite part of her job is seeing EVstudio projects come to life while visiting project sites throughout the build process.

LICENSES

Licensed P.E. in Colorado,
Idaho

EDUCATION

University of Evansville

FEATURED RELEVANT PROJECTS

Englewood High School Athletic Complex – Englewood, CO
Firehouse No. 5 – Denver, CO
Boulder County Housing Authority Parking Garage – Longmont, CO
Providence Village Recreation Center – Springs Ranch, CO
Aurora Highlands Entry Monument – Aurora, CO
Providence Village Recreation Center – Springs Ranch, CO
Exit 243 Dispensary – Idaho Springs, CO
RidgeGate Station – Lone Tree, CO
Wager Equipment Headquarters – Renovation – Aurora, CO



JEFF SCOTT, NCARB

LEAD ARCHITECT

Jeff is a licensed architect with vast experience on community projects. Jeff thrives on working with municipalities in the mountain region, creating unique and valuable designs, and building relationships that last beyond the completion of a project. Since joining EVstudio, he's greatly contributed to our portfolio. He is currently the lead on the Center for Arts Evergreen.

Jeff focuses on managing the design and logistics of this project. City of Pueblo can rest assured that the project will be value-driven, attractive, highly functional, timely, and top-quality. He knows how to create residences that respect the design goals and budget. He also knows how to take a concept drawing and complete the design to meet a more developed budget and schedule.

Jeff will work with Brian to make sure all drawings are completed on time for permitting processes, a process he knows well with projects in the mountain region.

LICENSES

Licensed Architect (NCARB)
in Colorado

EDUCATION

Savannah College of Art &
Design

Bowling Green State U.

FEATURED RELEVANT PROJECTS

Center for the Arts - Evergreen, CO
Cherry Creek Gun Range - Cherry Creek, CO
Tiny Brewery - Frisco, CO
Indiedwell Modular Developments - Salida, CO
Water Treatment Plant - Ouray, CO
Edgewater Community Cabines - Granby, CO
Englewood High School TEC Stadium Renovation- Englewood, CO
Clement Park Renovations – Littleton, CO
Addenbrooke Classical Academy Complex – Lakewood, CO
RidgeGate Station – Lone Tree, CO
Dry Creek Business Park – Broomfield, CO



BRIAN WELCH, P.E.

PRINCIPAL / DIRECTOR OF CIVIL ENGINEERING

Brian not only leads a dynamic team of civil engineers, but acts as a consultant when clients need advice. His hands-on construction background blended with his design expertise make him a unique reference. EVstudio's clients have come to rely on Brian for precision, project management excellence, and design solutions that obliterate the impossible. Brian uses his extensive experience and questioning to pinpoint design options no one else can see.

For this project, Brian will leverage his extensive experience and coordination skills among the architecture, structural, and MEP teams. His team will make sure your property supports your design, a robust structure, and peak performing systems.

LICENSES

Licensed P.E. in CO, MN, ID, NE, and VA

EDUCATION

Minnesota State University

FEATURED RELEVANT PROJECTS

Center for the Arts - Evergreen, CO
Evergreen Parks and Rec Division Buchanan, Wulf, Marshdale ADA Renovations - Evergreen, CO
Evergreen Parks and Rec Division Marshdale Park Improvements - Evergreen, CO
Evergreen Parks and Rec Division North Trail Master Plan - Evergreen, CO
Evergreen Parks and Rec Division Alderfer Barn Restoration - Evergreen, CO
Evergreen Parks and Rec Division Stagecoach Field Renovation - Evergreen, CO
Cherry Creek Gun Range - Cherry Creek, CO
Brook Forest Municipal Water District
Lookout Mountain Municipal Water District
Firehouse No. 5 – Denver, CO
Boulder County Housing Authority Parking Garage – Longmont, CO

SCHEDULE 5

Excerpt from Request for Proposal dated September 1, 2022, Appendix C

SPECIAL FUNDING CONTRACT REQUIREMENTS FOR CITY OF PUEBLO

This Appendix shall be added to all City bid projects with the potential utilization of federal or state fund projects (including projects utilizing FEMA, ARPA, SLFRF, or grant funds). The following clauses mirror the Federal Required Contract Provisions available at www.fema.gov/procurement-disaster-assistance-team. Questions about the City's Purchasing Policy and the federal project requirements may be directed to bidinfo@pueblo.us.

Definitions:

Agreement: For the purposes of this bid and/or project, *agreement* shall indicate a contract between City and Contractor.

Contractor: Awarded bidder, consultant, and/or engineer contracted or under agreement with the City for a specified duration or for specific project work.

Contract: Any form of agreement, award, written contract, issued purchase order, purchase agreement, etc. as issued by the City as a result of a formal or informal bid, cooperative agreement, or other award as determined appropriate by the Purchasing Director and/or City Mayor and/or City Council.

Notice:

The project(s) and contracts utilizing funds from a federally established fund, disaster relief program, state program, or other grant fund are subject to the sections contained herein and signature of the bid by the Contractor shall constitute Contractor's agreement to all terms within this bid, agreement, and/or contract.

Failure to adhere to all federal, FEMA, state, grant, and City project requirements may mean suspension or debarment by the City of Pueblo, the federal government, and other FEMA awarded projects (as per 2 CFR, Part 180, Implementing Executive Orders 12549 and 12689).

It is the Contractor's responsibility to adhere to any federal fund project requirements that may be revised, added, stipulated by the situation or federal fund advisor, etc. Additionally, Contractor must adhere to the terms of the grant award as applicable for each project, including all federal laws, executive orders, federal regulations, state oversight regulations, etc. Failure to adhere to these and all other project requirements may mean suspension or debarment (see Section 9 below).

As indicated below each Section, some clauses determined nonapplicable for this project may be removed.

1. REMEDIES

Applicable to all contracts/agreements in excess of \$250,000; 2 CFR, Part 200, Appendix II(A)

- 1.1 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.
- 1.2 The City may withhold any amount that may be due Contractor as the City deems necessary to protect the City against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the City in procuring from third parties replacement products and services necessary to complete the project.
- 1.3 City may deny payment for products not received and services not performed, or that due to Contractor's actions/inactions cannot be delivered/performed, or if they were delivered/performed and are reasonably of no value to the City, provided that any denial of payment shall be equal to the value of the City's obligations for products/services not delivered/performed.

2. TERMINATION FOR CAUSE AND CONVENIENCE

Applicable to all contracts/agreements in excess of \$10,000; 2 CFR, Part 200, Appendix II(B)

As provided in Section 6 of the Agreement

3. EQUAL EMPLOYMENT OPPORTUNITY

This section is required for all federal grant and cooperative agreement programs; 2 CFR, Part 200, Appendix II(C)

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

- 3.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; 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 setting forth the provisions of this nondiscrimination clause.
- 3.2 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, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3.3 The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant.

This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- 3.4 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, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 3.5 The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 3.6 The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 3.7 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 3.8 The Contractor will include the portion of the sentence immediately preceding paragraph (3.1) and the provisions of paragraphs (3.1) through (3.8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. DAVIS BACON ACT

Only applicable for construction contracts in excess of \$2,000; include most current Davis Bacon Wages supplement; 2 CFR, Part 200, Appendix II(D)

This contract is not for construction and the Davis Bacon Act section has been removed.

5. COPELAND ANTI-KICKBACK ACT

Only applicable for construction contracts in excess of \$2,000; 29 CFR, Part 3

This contract is not for construction and the Copeland Anti-Kickback Act section has been removed.

6. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Applicable for projects in excess of \$100,000 that involve employment of mechanics or laborers; 2 CFR, Part 200, Appendix II(E)

This contract is not for work being performed by mechanics or laborers this section has been removed.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT/AGREEMENT

Applicable to contracts for performance of experimental, developmental, or research work; 2 CFR, Part 220, Appendix II(F)

This contract is not for use of experimental, developmental, or research and this section has been removed.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Contracts in excess of \$150,000; 2 CFR, Part 200, Appendix II(G)

8.1 Clean Air Act:

8.1.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

8.1.2 The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the federal, state, or other grant funding agency and the appropriate Environmental Protection Agency Regional Office.

8.1.3 The Contractor agrees to include these requirements in each subcontract meeting or exceeding \$150,000.

8.2 Federal Water Pollution Control Act:

8.2.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

8.2.2 The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the federal,

state, or other grant funding agency and the appropriate Environmental Protection Agency Regional Office.

8.2.3 The Contractor agrees to include these requirements in each subcontract meeting or exceeding \$150,000.

9. DEBARMENT AND SUSPENSION

Required for all federal, state, grant, and cooperative agreement programs; 2 CFR, Part 200, Appendix II(H)

- 9.1 This contract is a covered transaction for purposes of 2 CFR, Part 180 and 2 CFR, Part 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 CFR Section 180.995) or its affiliates (defined at 2 CFR Section 180.905) are excluded (defined at 2 CFR Section 180.940) or disqualified (defined at 2 CFR Section 180.935).
- 9.2 The Contractor must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 9.3 This certification is a material representation of fact relied upon by City. If it is later determined that the Contractor did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.
- 9.4 The bidder agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

Award of \$100,00 or more; 2 CFR, Part 200, Appendix II(I)

Contractors must sign and submit to the City the certification attached as Appendix D. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient.

11. PROCUREMENT OF RECOVERED MATERIALS

Required for all federal grant and cooperative agreement programs; 2 CFR, Part 200, Appendix II(J)

- 11.1 In the performance of this contract/agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items in accordance with 40 C.F.R. Part 247, unless the product cannot be acquired:

- Competitively within a timeframe providing for compliance with the contract performance schedule.
- Meeting contract performance requirements.
- At a reasonable price.

11.2 Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

11.3 The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

12. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Required for all federal grant and cooperative agreement programs used to purchase telecommunications and video surveillance services or equipment; 2 CFR, Part 200, Appendix II(K)

This contract does not involve telecommunications and video surveillance services or equipment.

13. DOMESTIC PREFERENCES FOR PROCUREMENT

Required for all federal grant and cooperative agreement programs; 2 CFR, Part 200, Appendix II(L)

To the extent consistent with law and in accordance with 2 C.F.R. § 200.322, Contractor and all of its subcontractors will to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement must be included in all contracts and purchase orders that Contractor may enter into.

14. ACCESS TO RECORDS

This section from Recommended Contract Provision No. 1; Required for all City federally funded projects

- 14.1 The Contractor agrees to provide the federal fund and/or grant provider, the City, the Comptroller General of the United States, and/or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- 14.2 The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 14.3 The Contractor agrees to provide the federal fund and/or grant provider or authorized representatives access to construction or other work sites pertaining to the work being completed under the Project.
- 14.4 In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the federal fund and/or grant provider or the Comptroller General of the United States.

15. CHANGES

This section from Recommended Contract Provision No. 2; Required for all City federally funded projects

The cost of changes, modifications, change orders, or constructive changes must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of the project scope.

Changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract as long as the City and Contractor agree to change in writing and change still meets any funding submittal and expiration dates.

16. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, AND FLAGS

This section from Recommended Contract Provision No. 3; Required for all City federally funded projects

The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific federal fund and or grant administrator approval.

17. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This section from Recommended Contract Provision No. 4; Required for all City federally funded projects

This is an acknowledgement that federal financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable federal law, regulations, executive orders, federal policies, procedures, and directives.

18. NO OBLIGATION BY FEDERAL GOVERNMENT

This section from Recommended Contract Provision No. 5; Required for all City federally funded projects

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

19. FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS

This section from Recommended Contract Provision No. 6; Required for all City federally funded projects

The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims or Statements) applies to the Contractor's actions pertaining to this contract.



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$123,014.74 TO SHORT-ELLIOTT-HENDRICKSON, INC., A COLORADO CORPORATION, FOR PROJECT NO. 22-041 RFQ DESIGN AND ENGINEERING FOR ADAMS AVENUE AND JACKSON STREET ROUNDABOUT PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards an Agreement for Professional Engineering Services to Short-Elliott-Hendrickson, Inc. ("SEH"), for engineering design services for Adams Avenue and Jackson Street Roundabout Project, No. 22-041. SEH was determined to be the most responsible bidder and will be awarded a contract in the amount of \$123,014.74.

PREVIOUS COUNCIL ACTION:

Ordinance 10120, dated February 28, 2022, created Project No. CI2206 for Adams Avenue and Jackson Street Roundabout Project, an approved IGA between Pueblo and CDOT relating to the Adams Avenue and Jackson Street Roundabout Project, and budgeted and appropriated funds from CDOT totaling \$900,000 for the Project.

Resolution 14860, dated April 25, 2022, authorized the transfer of \$100,000 from Project No. CI2204 to Project No. CI2206.

BACKGROUND:

The City of Pueblo was awarded a Highway Safety Improvement Program (HSIP) Grant with an overall project cost of \$1,000,000. CDOT will provide \$900,000 of the project funding and, under the grant agreement, the City of Pueblo is required to provide 10% of the project funding in the amount of \$100,000.

In August 2022, the City of Pueblo solicited Requests for Proposals for Engineering Design Services for Adams Avenue and Jackson Street Roundabout Project. After reviewing the proposals, SEH was determined to be the most advantageous to the City of Pueblo, and in the best interest of the City of Pueblo, based on the evaluation factors set forth in the Request for Proposals.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$123,014.74 will be paid from CI2206 – Adams Avenue and Jackson Street Roundabout Project.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Resolution.

STAKEHOLDER PROCESS:

Not Applicable to this Resolution.

ALTERNATIVES:

Denial of this Resolution will result in the City of Pueblo being unable to proceed with the design of the Adams Avenue and Jackson Street Roundabout Project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 22-041 SEH PROPOSED AGREEMENT Adams and Jackson Roundabout

RESOLUTION NO. 15069

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$123,014.74 TO SHORT-ELLIOTT-HENDRICKSON, INC., A COLORADO CORPORATION, FOR PROJECT NO. 22-041 RFQ DESIGN AND ENGINEERING FOR ADAMS AVENUE AND JACKSON STREET ROUNDABOUT PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, proposals for Project No. 22-041 RFQ Design and Engineering for Adams Avenue and Jackson Street Roundabout Project, have been received and examined; and

WHEREAS, the proposal Short-Elliott-Hendrickson, Inc. ("SEH"), was determined to be the most advantageous to the City of Pueblo, and in the best interest of the City of Pueblo, based on the evaluation factors set forth in the Request for Proposals; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 22-041 RFQ Design and Engineering for Adams Avenue and Jackson Street Roundabout to be performed, and the contract for said services is hereby awarded to Short-Elliott-Hendrickson, Inc. ("SEH"), in the amount of \$123,014.74

SECTION 2.

Funds for said Agreement shall be paid from Project No. CI2206 – Adams Avenue and Jackson Street Roundabout Project.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest the same.

SECTION 4.

The officers of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

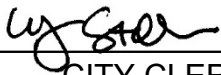
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BY AND BETWEEN CITY OF PUEBLO AND SHORT ELLIOTT HENDRICKSON, INCORPORATED

THIS AGREEMENT ("Agreement") made and entered this ____ day of November, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner" or "City") and Short Elliott Hendrickson, Incorporated, a Minnesota Corporation authorized to do business in the State of Colorado (hereinafter "Consultant"), a professional engineering firm for Consultant to render certain professional planning, design, engineering and related services for Owner in connection with Bid 22-041 RFQ Design and Engineering for Adams and Jackson Roundabout, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1

Consultant shall satisfactorily perform professional planning and design services for all phase of Project indicated below by mark placed in the appropriate boxes with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances in the same location:

[] - Study and Report Phase

[X] - Preliminary Design (Schematic) Phase

[X] - Final Design Phase

[X] - Preparation of Contract Documents & Bidding Phase

[X] - Construction Services Phase

Upon completion of any phase, Consultant shall not proceed with work on the next phase, if any, until authorized in writing by Owner to proceed therewith.

Such services shall include all usual and customary professional engineering services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical engineering, environmental, and planning services. Consultant shall also provide any landscape engineering and geotechnical services incidental to its work on the Project.

1.2

In performing the professional services, Consultant shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Consultant is to render professional services.

1.3

Professional engineering services (whether furnished directly or through a professional subcontractor) shall be performed under the direction and supervision of a registered engineer in good standing and

duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered engineer.

1.4

Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5

Any architect services provided under this Agreement shall be performed under the direction and supervision of an architect licensed to practice architecture in the state of Colorado.

SECTION 2. ENGINEERING SERVICES

2.1 Study and Report Phase.

If Consultant is to provide professional services with respect to the Project during the Study and Report Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Consult with Owner to determine his requirements for the Project and review available data.
- B. Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.
- C. Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
- D. Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.
- E. Provide general economic analysis of Owner's requirements applicable to various alternatives.
- F. Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Consultant's findings and recommendations with opinions of probable costs.
- G. Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design (Schematic) Phase.

If Consultant is to provide professional services with respect to the Project during the Preliminary Design Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study or report on the Project.

- B. Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.
- C. Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.
- D. Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.
- E. Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.
- F. Consultant shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase.

If Consultant is to provide professional services with respect to the Project during the Final Design Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent, and character of the work to be performed by contractors, and Specifications describing such work and the requirement therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Consultant shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR Part 36 Standards.
- B. Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.
- C. Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.
- D. Based upon Consultant's customary and usual professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost,

contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

- E. Consultant shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Preparation of Construction Documents & Bidding Phase.

If Consultant is to provide professional services with respect to the Project during the Preparation of Construction Documents & Bidding Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Consultant shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.
- B. After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any addenda which may be required or appropriate to correct errors, clarify drawings or specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.
- C. Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.
- D. Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Consultant in writing to all plan holders.
- E. Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Consultant's advice.

2.5 Construction Services Phase.

If Consultant is to provide professional services with respect to the Project during the Construction Services Phase, after award by the Owner of a general contractor for construction of the Project, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Perform all duties and functions to be performed by Consultant under the terms of the construction contract.
- B. Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Consultant's obligation concerning level of observation.
- C. Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.
- D. Promptly advise the Owner in writing of any omissions, substitutions, defects, or deficiencies noted in the work of any contractor, subcontractor, supplier, or vendor on the Project.
- E. Reject any work on the Project that does not conform to the contract documents.
- F. On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the drawings and specifications and requirements of the construction work.
- G. Review shop drawings, samples, product data, and other submittals of the contractor for conformance with the design concept of Project and compliance with the drawings, specifications, and all other contract documents, and indicate to contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.
- H. Review all applications of contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Consultant's representation to Owner that it has inspected the Project and that to the best of its knowledge, the work for which payment has been sought has been completed by contractor in accordance with the drawings, specifications, and other contract documents.
- I. Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.
- J. Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.
- K. On application for final payment by the contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.
- L. The Consultant shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of

the Owner or contractor, the Consultant shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work on the Project. The interpretations and decisions of the Consultant shall be final and binding on the contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Consultant's interpretation or decision, file its written objections thereto with the Consultant and contractor.

2.6 Additional Responsibilities.

This paragraph applies to all phases of Consultant's work.

- A. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including designs, drawings, specifications, reports, and other services, irrespective of Owner's approval or acquiescence to same. Consultant shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its work.
- B. Consultant shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Consultant's negligent act or omission; except that Consultant hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.
- C. Consultant's professional liability shall comply with the standard of care applicable to the type of engineering and architectural services provided, for similarly situated Consultants, commensurate with the size, scope, location, and nature of the Project.
- D. Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Consultant's employees.
- E. Consultant acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and subconsultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Consequently, Consultant represents that Consultant has selected and intends to employ or assign the key personnel and consultants identified in Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner shall have the right to object in writing to employment on the Project of any such key person, subconsultant, or assignment of principal responsibility, in which case Consultant will employ alternate personnel for such function or reassign such

responsibility to another to whom Owner has no reasonable objection. Thereafter, Consultant shall not assign or reassign Project work to any person to whom Owner has reasonable objection. Within five (5) days of execution of this Agreement, Consultant shall designate in writing a Project representative who shall have complete authority to bind Consultant, and to whom Owner should address communications.

- F. Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Consultant shall submit to Owner for approval a schedule showing the order in which Consultant proposes to accomplish its work, with dates on which it will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Consultant will not be responsible for delays beyond its control.
- G. Before undertaking any work which Consultant considers beyond or in addition to the scope of work and services which Consultant has contractually agreed to perform under the terms of this Agreement, Consultant shall advise Owner in writing (i) that Consultant considers the work beyond the scope of this Agreement, (ii) the reasons the Consultant believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Consultant shall not proceed with such out of scope or additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Consultant shall be compensated for its direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

2.7 Requirements Where Federal Assistance Provided.

- A. Work to be performed by Consultant under this Agreement is funded in whole or in part with federal and/or state funds. As such, this Agreement shall be construed to include all applicable terms required by any federal and/or state assistance agreement and integrated federal and state regulations including the State of Colorado Intergovernmental Agreement dated March 29, 2022 between the State of Colorado ("State") and Owner ("Grant Agreement"), which is incorporated herein by this reference, and the Federal and State contract provisions set forth in Schedule 4. By executing this Agreement, Engineer agrees to be bound by all such mandatory federal and state requirements, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to the execution of this Agreement. Without limiting Engineer's obligation, Consultant expressly acknowledges the following requirements:
 - 1. The design work under this Agreement shall be compatible with the requirements of the Grant Agreement for the design/construction of the project. The State is an intended third-party beneficiary of this Agreement for that purpose.

2. Upon advertisement of the project work for construction, the Consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
 3. The Consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
 4. The State, in its sole discretion, may review construction plans, special provisions, and estimates; and may require Owner to make such changes therein as the State determines necessary to comply with State and FHWA requirements.
- B. Consultant further agrees that it shall be liable for and obligated to pay Owner any and all amounts for which State may seek reimbursement from Owner arising out of Engineer not meeting the contract commitments as set forth or otherwise required pursuant to CDOT Professional Services Local Agency Civil Rights & Disadvantaged Business Enterprise (DBE) Contract Requirements. See Schedule 5 attached.

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

- A. Designate a representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.
- B. Advise Consultant of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.
- C. Provide Consultant with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.
- D. Assist in arranging for Consultant to have access to enter private and public property as required for Consultant to perform its services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by Consultant, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of drawings, design, specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Consultant of responsibility for the professional adequacy of his work. The Owner's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver

of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

- F. Upon advice of the necessity to do so from Consultant, obtain required approvals and permits for the Project. The Consultant shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.
- G. Notify Consultant whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Consultant's services.
- H. Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of 45 days shall be presumed reasonable for Owner to act with respect to any matter involving policy or significant financial impact.

SECTION 4. TIME FOR PERFORMANCE

Consultant's obligation to render services shall continue for such period of time as may reasonably be required for completion of the work contemplated in Schedule 1 – “Scope of Services” and Section 2 of this Agreement. Proposed work schedule attached as Schedule 3 may only be altered by agreement of all parties.

SECTION 5. PAYMENT

5.1

Owner will pay to Consultant as full compensation for all services required to be performed by Consultant under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed \$123,014.74 in the aggregate as set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Schedule 2 as to each phase of work indicated in Section 1.1 of this Agreement, the maximum amount of compensation for any phase shall not exceed the amount specified in Schedule 2 for such phase.

5.2

Consultant shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been performed and expenses incurred. Thereafter, Owner shall pay Consultant for the amount of the application within 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Consultant's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Consultant submittals have been provided. In addition, City may withhold from payment of the final invoice or payment for the final phase of the Project any and all amounts for which State may seek

reimbursement from Owner arising out of Engineer not meeting the contract commitments as set forth or otherwise required pursuant to CDOT Professional Services Local Agency Civil Rights & Disadvantaged Business Enterprise (DBE) Contract Requirements. See Schedule 4.

5.3

The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4

No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

5.5

No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.

5.6

Compensation for authorized work beyond the scope of this Agreement shall be governed by Section 2.6(g).

SECTION 6. TERMINATION

6.1

Owner reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work, stop incurring expenses, and shall promptly deliver to Owner all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Consultant may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2

Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to the date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or Owner. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 5.1.

6.3

In the event termination of this Agreement or Consultant's services is for breach of this Agreement by Consultant, or for other fault of Consultant including but not limited to any failure to timely proceed with work, or to pay its employees and subconsultants or subcontractors, or to perform work according

to the highest professional standards, or to perform work in a manner deemed satisfactory by Owner's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to the lesser of: (a) the reasonable value of completed work to Owner, or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4

Consultant's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 Ownership of Documents.

All designs, drawings, specifications, technical data, and other documents or instruments procured or produced by the Consultant in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Consultant agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, drawings or specifications provided hereunder for another project independent from Project, without adaptation by Consultant, Owner shall hold harmless Consultant from all loss, claims, injury, and judgments arising from the use of such designs, drawings or specifications for such other project.

7.2 Advertising.

Unless specifically approved in advance in writing by Owner, Consultant shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Consultant's employees. If Consultant wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.3 Insurance and Indemnity.

- A. Consultant agrees that it has procured and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph 8.2(b) below.

- B. Insurance coverage shall meet all requirements of the Grant Agreement as provided in Subsection 2.7 of this Agreement. Consultant shall obtain and keep in force the following insurance policies and meet and perform the following conditions and requirements:
1. Workers' Compensation Insurance as required by statutory requirements in Colorado and in any other state or states where the work is performed, and employers' liability insurance covering all employees acting within the course and scope of their employment.
 2. Commercial General Liability Insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:
 - a. \$1,000,000 each occurrence;
 - b. \$1,000,000 general aggregate;
 - c. \$1,000,000 products and completed operations aggregate; and
 - d. \$50,000 any 1 fire
 3. Automobile Liability. Automobile liability insurance covering any auto (including owned, hired, and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.
 4. Protected Information. Liability insurance covering all loss of State Confidential Information as defined in the Grant Agreement, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:
 - a. \$1,000,000 each occurrence; and
 - b. \$2,000,000 general aggregate
 5. Professional Liability Insurance. Professional Liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:
 - a. \$1,000,000 each occurrence; and
 - b. \$1,000,000 general aggregate
 6. Crime Insurance. Crime insurance including employee dishonesty coverage with minimum limits as follows:
 - a. \$1,000,000 each occurrence; and
 - b. \$1,000,000 general aggregate
 7. Insurance Conditions and Requirements

- a. All insurance policies shall be issued by insurance companies with an AM Best rating of A-VIII or better.
 - b. The Owner and State shall be named as an additional insured on all commercial general liability policies required of Consultant. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to Owner and State.
 - c. Coverage provided by Consultant shall be primary over any insurance or self- insurance program carried by Owner or State.
 - d. All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Owner.
 - e. All commercial insurance policies shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Owner and State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
 - f. Consultant shall provide certificates evidencing Consultant's insurance coverage required under this Agreement as a condition of approval of this Agreement by Owner.
- C. Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, his employees, subcontractors, and consultants.

7.4 Notices.

Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either the Owner or the Consultant by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the Owner, City of Pueblo, Department of Public Works, Attn: Andrew Hayes, Director, 211 E. D Street, Pueblo, CO, 81003 or to the Consultant, Short Elliott Hendrickson, Inc., Attn: James Hayson, PE/Principal, 503 North Main Street, Suite 225 Thatcher Building, Pueblo, CO, 81003-3138. Either party may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

7.5 Entire Agreement.

This instrument contains the entire agreement between the Owner and the Consultant respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Consultant in relation thereto not expressly set forth in this instrument are null and void. Notwithstanding the foregoing, the terms of Bid 22-041 RFQ Design and Engineering for Adams and Jackson Roundabout are hereby incorporated herein, and Consultant agrees to abide by and comply with the same. In the event of any conflict between any provision of this Agreement and a provision of any Schedule or attachment to this Agreement, the provision in this Agreement shall control

and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.6 Successors and Assigns.

This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Consultant may be assigned by it without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

7.7 Amendments.

No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representatives of both Consultant and Owner.

7.8 Choice of Law and Venue.

This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in a state court with jurisdiction located in Pueblo County, Colorado.

7.9 Equal Employment Opportunity.

In connection with the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, or age. Consultant shall endeavor to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, national origin, disability, or age.

7.10 Severability.

If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.11 Appropriations.

Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if work

is phased and subject to annual appropriation, funds only in the amount of initial appropriation are available and Consultant shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

7.12 Additional Requirements on Federally or State Funded Agreements.

If any of the work to be performed by Consultant under this Agreement is funded in whole or in part with federal or state funds, then this Agreement shall be construed to include all applicable terms required by the federal or state assistance agreement and integrated federal or state regulations. By executing this Agreement, Consultant agrees to be bound by all such mandatory federal or state requirements, irrespective of Consultant's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.13 Access to Property Not Under Owner's Control.

Consultant acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Consultant and Consultant's employees and subconsultants shall, at Consultant's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Consultant in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Consultant understands and agrees that entry to properties not under Owner's control may require Consultant to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. ADDITIONAL REQUIREMENTS ON FEDERAL OR STATE FUNDED PROJECTS

8.1

Work to be performed by Consultant under this Agreement is funded in whole or in part with federal and/or state funds. As such, this Agreement shall be construed to include all applicable terms required by any federal and/or state assistance agreement and integrated federal and state regulations including the State of Colorado Intergovernmental Agreement dated March 29, 2022 between the State of Colorado ("State") and Owner ("Grant Agreement"), which is incorporated herein by this reference, and the Federal and State contract provisions set forth in Schedule 4. By executing this Agreement, Consultant agrees to be bound by all such mandatory federal and state requirements, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to the execution of this Agreement. Without limiting Consultant's obligation, Consultant expressly acknowledges the following requirements:

- A. The design work under this Agreement shall be compatible with the requirements of the Grant Agreement for the design/construction of the project. The State is an intended third-party beneficiary of this Agreement for that purpose.
- B. Upon advertisement of the project work for construction, the Consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.

- C. The Consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
- D. The State, in its sole discretion, may review construction plans, special provisions, and estimates; and may require Owner to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

8.2

Consultant further agrees that it shall be liable for and obligated to pay Owner any and all amounts for which State may seek reimbursement from Owner arising out of Consultant not meeting the contract commitments as set forth or otherwise required pursuant to CDOT Professional Services Local Agency Civil Rights & Disadvantaged Business Enterprise (DBE) Contract Requirements. See Schedule 4.

SECTION 9. DISPUTES

9.1

Any dispute or disagreement between Consultant and Owner arising from or relating to this Agreement or Consultant's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

9.2

Pending resolution of any dispute or disagreement, or judicial review, Consultant shall proceed diligently with performance of its work under this Agreement.

SECTION 10. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:

Schedule 1 - "Scope of Services" consisting of 3 pages.

Schedule 2 - "Fee Schedule" consisting of 1 page.

Schedule 3 - "Work Schedule" consisting of 1 page.

Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 15 pages.

Schedule 5 - Federal Highway Administration (FHWA) Contract Clauses including "CDOT Professional Services Local Agency Civil Rights & Disadvantaged Business Enterprise (DBE) Contract Requirements" consisting of 25 pages.

SECTION 11. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility

and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Consultant therefore, will use its best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 12. COMPLIANCE WITH IMMIGRATION REFORM.

Consultant certifies that it has complied with the United States Immigration Reform and Control Act of 1986. Consultant represents and warrants that to the extent required by said Act, all persons employed by Consultant for performance of this contract have completed and signed Form I-9 verifying their identities and authorization for employment.

SECTION 13. PERA LIABILITY

The Consultant shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Consultant shall fill out the Colorado PERA Questionnaire and submit the completed form to City as part of the signed Agreement.

SECTION 14. ELECTRONIC SIGNATURE

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

[Signature section on following page]

This Agreement, together with all Project Documents incorporated by reference , constitutes the entire Agreement between City and Consultant with respect to their subject matter, and may not be amended a modified except by written document signed by both parties.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

SHORT ELLIOTT HENDRICKSON, INCORPORATED

By _____
Naomi Hedden, Director of Purchasing

By _____
James Hayson, Principal-In-Charge

Attest _____
Marisa Stoller, City Clerk

[S E A L]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Alexandria Romero, Finance Director

APPROVED AS TO FORM

Dan Kogovsek, City Attorney

Attachments: Schedule 1 Scope of Services
Schedule 2 Fee Schedule
Schedule 3 Work Schedule
Schedule 4 Identification of Personnel, Subcontractors, and Task Responsibility
Schedule 5 - Federal Highway Administration (FHWA) Contract Clauses including "CDOT
Professional Services Local Agency Civil Rights & Disadvantaged Business Enterprise
(DBE) Contract Requirements"
Additional Information

SCHEDULE 1

Scope of Services

Updated by City and Consultant, November 21, 2022

3.1 Scope of Service

The project involves the design of a traffic roundabout at the intersection of Adams Avenue and Jackson Avenue in the City of Pueblo. The roundabout shall provide a free-flow condition for all turning movements to eliminate the existing stop-controlled intersection configuration. Medians and concrete curb and gutter, as well as striping and appropriate signage will be installed on all four quadrants to delineate lanes and instruct drivers. Additional improvements to included crosswalks, curb ramps, hardscaping and other appurtenances will also be installed. The design and construction of the project will be funded through a grant received from the Colorado Department of Transportation; therefore, all design and requirements will adhere to FHWA oversight.

All drawings, designs, plans, specifications, etc. shall follow CDOT format. Designs shall comply with the most current versions of the *Public Right-of-Way Accessibility Guidelines* (PROWAG), CDOT Specifications, Manual on Uniform Traffic Control Devices (MUTCD) and City of Pueblo *Standard Construction Specifications and Standard Details*.

3.1.1 Preliminary Design Phase

- Perform fieldwork (geotechnical testing, etc.) as required to provide the complete design. Survey will be provided prior to the start of design.
- Perform geotechnical investigation and provide pavement recommendations to include:
 - The geotechnical scope of work will be to provide subsurface information, soil samples for laboratory testing, and to provide engineering parameters for pavement design. Proposed scope of work includes drilling four (4) exploratory borings to about 10 feet deep or refusal, whichever occurs first, conducting laboratory testing, and providing a report with geotechnical recommendations for pavement design. The borings will provide information on the subsurface profile including soil type, depth to bedrock and depth to groundwater (if encountered). The actual drill depths drilled may be adjusted slightly depending upon the subsurface conditions encountered.
 - Contract for traffic control and apply for permitting to access the ROW.
 - A field engineer or geologist will log the borings and obtain representative soil and bedrock samples. The borings will be backfilled after drilling and the pavement patched with at least 9 inches of asphalt cold patch or to the thickness of the existing pavement, whichever thickness is greater. Soil and bedrock samples collected will be returned to the laboratory and selected samples will be programmed for testing. Typical tests will include gradation, liquid and plastic limits, R-value, swell-compression, and water-soluble sulfates.

- The results of the field and laboratory investigations will be used to evaluate geotechnical designs for the proposed roadway improvements. Three engineering reports (one for each project) will be prepared to contain:
 - Brief review of field and laboratory procedures.
 - Site geology, physical description.
 - Subsurface conditions encountered (soils, bedrock, and groundwater).
 - Results of laboratory testing.
 - Recommendations for pavement design.
- Traffic volume counts were done in 2005 and due to the limited amount of traffic at this intersection; updated counts should not be necessary to complete the design.
 - Northeast bound daily entering volume is 1,436 / 33.6 mph
 - Southwest bound daily entering volume is 844 / 36.7 mph
 - Southeast bound daily entering volume is 342 / 34.7 mph
 - Northwest bound daily entering volume is 656 / 22.0 mph
- Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.
- Review all available traffic data and will perform the roundabout analysis in HSC and/or RODEL to determine lane configuration.
- Prepare preliminary design plans (considered as 30% complete relative to final design) that adequately represent the design intent as represented in the preliminary design from the CDOT grant.
 - A preliminary design package will be developed to the 30% Design Level for City of Pueblo and CDOT review. This package will contain proposed design of improvements in plan views depicting existing and proposed grades, removals and relocations, preliminary roundabout layout, intersection lighting, hardscaping, general notation, and encroachments.
 - SEH will apply the recommendations from the model results to prepare up to two (2) Concept Layouts showing general design parameters, including approach lanes, splitter islands, lane tapers, and other design details as needed.
 - The project team will review with the City to determine the preferred alternative concept to move to preliminary design.
- Landscape design will be comprised of hardscape design. Monument signage and/or incorporation of placement making sculpture is not included.

- Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.
- Prepare and submit to Owner a requirements checklist of any subsurface investigation, right-of-way acquisition, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.
- Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.
- Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.
 - An Engineer's opinion of probable cost will be completed and discussed with City of Pueblo
- Provide Subsurface Utility Engineering (SUE)
 - Verify established primary survey control provided by City of Pueblo (Using Trimble R12i receivers) These site monuments will be used for the subsurface utility engineering services.
 - Perform SUE in accordance with the American Society of Civil Engineers Construction Institute Standard 38-02 (ASCE/CI 38-02) for project area described herein and include the following activities:
 - Compilation of utility data (i.e., records and as-built information) acquired by all parties.
 - Preparation of field books, log sheets, and crew scheduling and coordination for the initial utility designating field campaign.
 - Phase 1: 2D QL B data acquisition (using electromagnetic (EM) induction, acoustic, and/or other geophysical technologies), characterization, and 2D depiction (CADD file) of existing utility infrastructure data to develop a reliably qualified base map and data set from which to develop and support future design, coordination, and construction decisions. Any utilities designated to QL C and/or QL D quality levels will be explained and described in the Phase 1 SUE existing utility report as to why a quality level below QL B has been used.
- QL-A test holes are not included at this time. Upon identification of potential utility conflicts, provide the City with scope of services estimate for performing QL-A test hole investigations based on rates published within the professional services agreement.
- Provide the following regarding right-of-way acquisition. This cost should be provided as a separate line item and will be added to the contract if required.
 - Consultant shall provide the research necessary to determine the right-of-way.

- Provide detailed identification for land acquisitions, temporary and permanent easements and provide legal descriptions and exhibits for acquisitions.
- Provide right-of-way plans showing temporary and permanent easements where required. This cost should be provided as a separate line item and will be added to the contract if required.
- Consultant shall provide environmental assessment as required for CDOT environmental clearance, including history Section 106 consultation and Section 4(f), and hazardous materials.
- Assist City of Pueblo in initiation of necessary coordination and clearance requirements from CDOT Environmental Specialty Unit.
 - Hazardous Materials
 - Obtaining agency database
 - Preparing CDOT Form 881 (No technical report)
 - Collection of up to four (4) paint samples for lead analysis
 - Historic Resources
 - Evaluation of eligibility of up to four (4) resources.
 - Development of potential effect.
 - Preparation of eligibility and effects letter.
 - Section 4(f) notification letter, assuming a conclusion of 'no adverse effect' to historic resources.
- Environmental scope and fee were developed assuming CDOT would "clear" all other resources on Form 128 than included herein. Additionally, scope assumes no significant impacts, permitting, or mitigation development.
- Provide coordination with all applicable agencies as required (City Departments, adjacent property owners, utility companies, CDOT, etc.).
- Allow a minimum two (2) full weeks for City and CDOT staff review.
- Consultant shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use
 - CADD utility reference file based on SUE Phase 1 findings, Sealed and Signed existing utility plan with quality level designations; Conceptual drawings, up to 2; FIR plan set (Cover Sheet with vicinity and location map, roundabout horizontal layout sheets, removals, Typical sections, improvements plan views, standard plan list, summary of quantities, and details); preliminary engineer's estimate; Standard Project Specials and Project Specials Table of Contents.

- Coordinate a Field Inspection Review (FIR) meeting with the City and CDOT staff to review the design plan comments
 - FIR meeting minutes will be completed within 3 days after the meeting. The minutes will be distributed to attendees and stakeholders for review, comment, and clarification.
- Incorporate review and FIR comments into documents after the FIR Meeting.
- Revise plans and address comments per City of Pueblo and CDOT review comments.
- Prepare for and host one (1) public information meeting.

3.1.2 Final Design Phase

- Perform final engineering and site design. Consultant shall include plans and profile, sections, storm water plans, and related work (including all incidentals).
 - A complete set of construction documents required for a final design, FOR level submittal will be developed in CDOT format, including cover sheet, standard plan list, general notes, summary of approximate quantities, survey control diagram, survey tabulation, removals and relocation plans, plan and profiles, hardscape plans, lighting plans, details, construction phasing plan (if required), general project notes, and Storm Water Management Plan.
- Provide all necessary documents to obtain clearances that are required by CDOT.
- Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.
- Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.
- Based upon Consultant's customary and usual professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.
- Consultant shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner.
 - Cover sheet with Vicinity Map and Project Map, CDOT Standard Plan List, general notes, survey control diagram, survey tabulation sheet, removal, and relocation plans, SWMP, details, plan, and profiles, signing and striping plan, traffic control and phasing plan, project construction contract documents, and engineer's estimate, meeting agenda and minutes.
- Allow a minimum two (2) full weeks for City and CDOT staff review.

- Coordinate a 90% Final Office Review (FOR) meeting with the City and CDOT staff to review the design plan comments
- Incorporate review and FOR comments into documents after the FOR Meeting.

3.1.3 Preparation of Contract Documents and Bidding Phase

- Provide stamped Contract Documents (drawings, specifications, bid tabulation, etc.) for bidding the project in accordance with the requirements of the Director of Public Works and the City's procurement process.
 - A complete set of construction documents required for a CDOT PS&E (Plans, Specifications and Estimate) will be prepared for submittal.
- Assist City of Pueblo in preparation of Utility, Right-of-Way, and Environmental Clearance Letters.
- Provide documentation to CDOT of utility clearance from all known utility companies.
 - Provide documentation to CDOT in form of ROW clearance letter from City of Pueblo.
 - It is assumed that CDOT will complete environmental clearances not identified herein to be completed by Consultant.
- Provide electronic files of drawings to the City in AutoCAD format.
 - PDF files of PS&E package, DWG files of plans, Word Documents of contract documents and specifications, engineer's estimate, meeting agenda and minutes.
- Provide design drawings and specifications in both Microsoft Word and Adobe PDF formatting.
- Provide final cost estimate and bid tabulation in Microsoft Excel format.
- Attend a pre-bid conference with bidders and City to discuss project requirements.
- Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Consultant's advice.

3.1.4 Construction Services Phase

Provide all services necessary to provide post construction award services (PCAS) to include but not limited to the following:

- Assist with resolution of critical construction issues as needed in an "on call" capacity (estimate 20 hours)
- Attend pre-construction, and other critical meetings as related to the project (estimate 5 hours).
- Attend specific construction issue meetings on an on-call basis (estimate 20 hours)

SCHEDULE 2 Fee Schedule

Submittal from Consultant, Negotiated Fees dated October 5, 2022

Request for Proposal - Fee Schedule 22-041 - Design and Engineering for Adams and Jackson Roundabout - Rev-1		Preliminary Design							Final Design Phase					Preparation of Contract Documents and Bidding Phase		Construction Services	
Labor Category	Labor Rate	Project Kick-off Conference Meeting with City, Includes Agenda and Meeting Minutes.	Task Order Oversight, Reporting, Project Management, Client Communication, Scheduling, Internal Team Management, Coordination, and Team Meetings	Perform fieldwork (surveying, geotechnical investigations, etc.) as required to provide right-of-way and conceptual overall design.	Prepare preliminary design plans (considered as 30% complete relative to final design) for City's review and comment. The preliminary design plans shall adequately represent the design intent as represented in the preliminary design from the CDDOT grant and incorporate applicable standards and specifications.	Coordinate with City and CDDOT for review of all design plans and specifications, including with CDDOT and City Staff. Incorporate review comments into FOR submittal.	Prepare a detailed project cost estimate.	Stakeholder and Public Input Meetings (Assume (1) 2 hour meeting)	Task Order Oversight, Reporting, Project Management, Client Communication, Scheduling, Internal Team Management, Coordination, and Team Meetings	Perform field engineering and site design (FOR Review) for sewer, stormwater, and utility sections, stormwater plans and related work details (including all incidents).	Updated project cost estimate	Coordinate with City and CDDOT for review of all drawings and specifications. Incorporate review comments and revisions into all documents. Address FOR review comments into CDDOT and City Staff. Incorporate FOR review comments into Final PS&E.	Coordinate with CDDOT for review of the documents and all necessary clearances required by CDDOT.	Prepare Contract Documents (drawings, specifications, bidding documents, and any contract document addenda) for bidding the project in accordance with the requirements of the Director of Public Works and the City's procurement process.	Complete Contract Documents into electronic media (or delivery to City of Pueblo)	Assist in resolution of critical construction issues as needed in "on-call" capacity (estimated 20 hours). Attend pre-bid, pre-construction, owner critical meetings (estimated 20 hours). Provide assistance with critical construction issues (estimated 20 hours).	Total Hours
Project Manager/Civil Lead - (Jimmie Hayson)	\$178.00	2	8	2	4	2	1	8	8	4	1	2	4	2	6	24	78
Quality Control/Assurance Manager (Scott Jardine)	\$205.00				4							9					12
Sr Professional Engineer II (Scott Hotkin)	\$220.00	2	2		24					16		2	2			6	53
Sr. Professional Engineer II (Travis Mooney)	\$160.00	1	2		26	1	1		2	40	1	20		4	1		109
Graduate Engineer (Craig Hayson)	\$108.00	1	2		64		4		1	98	4	46		12		16	247
Sr. Professional Engineer (David Hoesly)	\$175.00		1		6				1	8				3			23
Staff Planner (Andy Arnold)	\$140.00							8				4					8
Sr. Professional Engineer II (John Carlson)	\$230.00		1											3			1
Sr. Electrical Engineer (Ken Talton)	\$205.00		1						1								2
Electrical Designer (Andrew Felber)	\$147.00				1					1				1			3
Electrical Designer (Jon Kruse)	\$152.00				10		1			12				3			26
Electrical Designer (Mark Anderson)	\$135.00				8		2			10	2			2			24
Senior PLS - (Scott Klinker)	\$185.00	1											3				4
Field Surveyor - (Ben Hardenbergh)	\$120.00			14													14
Field Surveyor - (Erik Mion)	\$108.00			2													2
S.U.E. Manager - (Josh Antfinson)	\$207.00		1	2													3
S.U.E. Staff Engineer - (Caleb Mohutt)	\$137.00				8												8
S.U.E. Manager - (Daniel Torrez)	\$112.00			12													12
S.U.E. Technician - (Bob Ewing)	\$102.00			12													12
Sr. Accounting Representative - (Suzie O'Connor)	\$118.00			3					2					1			6
Total Hours		6	18	47	165	3	9	16	15	189	8	82	9	28	7	45	647
Total Labor Cost		\$1,141	\$3,220	\$5,588	\$24,395	\$516	\$1,192	\$2,544	\$2,471	\$25,961	\$1,040	\$11,316	\$1,707	\$3,817	\$1,228	\$7,313	\$93,449.00
Other Direct Costs / Equipment / Materials / Supplies / Re-production / Mailings / Shipping / Services																	
Geotechnical - Vivid Engineering Group				\$10,290.00													\$10,290.00
Environmental Consultant - Phiyon Environmental				\$17,767.59													\$17,767.59
GPS/Robotics				\$350.00													\$350.00
Vehicle Charge (\$4.90/hr)				\$127.40													\$127.40
S.U.E. Equipment (JULIE)				\$320.00													\$320.00
Subtotal		\$0.00	\$0.00	\$28,854.99	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$28,854.99
Travel Expenses / Vehicle Mileage / Lodging / M&IE / Per Diem																	
Number of People Traveling:				3													
Meals and Lodging																	
Lodging - \$115/ Night.				\$115.00													\$115.00
Meals - \$59 Per Diem per day of travel (3/4 for first/last day)				\$177.00													\$177.00
Vehicle Mileage - Travel to/from																	
Round Trip Mileage - Federal GSA Rate - \$0.625/mile (2022 Rate).				\$418.75													\$418.75
Airfare- Travel to/from + Baggage Fees																	
Round Trip																	\$0.00
Rental Car																	
Rental Car - \$65/day																	\$0.00
Rental Car Fuel																	\$0.00
Subtotal - Travel Expenses / Vehicle Mileage / Lodging / M&IE / Per Diem		\$0	\$0	\$711	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$710.75
Total Cost		\$1,141.00	\$3,220.00	\$35,153.74	\$24,395.00	\$516.00	\$1,192.00	\$2,544.00	\$2,471.00	\$25,961.00	\$1,040.00	\$11,316.00	\$1,707.00	\$3,817.00	\$1,228.00	\$7,313.00	\$123,014.74

SEH HOURLY BILLABLE RATES – 2022

CLASSIFICATION - OFFICE STAFF	BILLABLE RATE ⁽¹⁾
Principal	\$170.00 - \$270.00
Project Manager	\$140.00 - \$240.00
Senior Project Specialist	\$135.00 - \$220.00
Project Specialist	\$100.00 - \$175.00
Senior Professional Engineer I	\$115.00 - \$180.00
Senior Professional Engineer II	\$140.00 - \$225.00
Professional Engineer	\$105.00 - \$165.00
Graduate Engineer	\$85.00 - \$135.00
Senior Architect	\$125.00 - \$210.00
Architect	\$110.00 - \$150.00
Graduate Architect	\$85.00 - \$110.00
Senior Landscape Architect	\$115.00 - \$170.00
Landscape Architect	\$95.00 - \$125.00
Graduate Landscape Architect	\$85.00 - \$100.00
Senior Scientist	\$130.00 - \$170.00
Scientist	\$90.00 - \$135.00
Graduate Scientist	\$80.00 - \$105.00
Senior Planner	\$130.00 - \$210.00
Planner	\$100.00 - \$150.00
Graduate Planner	\$90.00 - \$120.00
Senior GIS Analyst	\$110.00 - \$175.00
GIS Analyst	\$100.00 - \$120.00
Project Design Leader	\$120.00 - \$185.00
Lead Technician	\$105.00 - \$170.00
Senior Technician	\$90.00 - \$135.00
Technician	\$65.00 - \$115.00
Graphic Designer	\$90.00 - \$145.00
Administrative Professional	\$55.00 - \$130.00

CLASSIFICATION - FIELD STAFF	BILLABLE RATE ⁽¹⁾
Professional Land Surveyor	\$135.00 - \$185.00
Lead Resident Project Representative	\$95.00 - \$155.00
Senior Project Representative	\$90.00 - \$135.00
Project Representative	\$75.00 - \$125.00
Survey Crew Chief	\$85.00 - \$135.00
Survey Instrument Operator	\$60.00 - \$95.00
SUE Manager	\$180.00 - \$210.00
SUE Technician	\$95.00 - \$135.00

(1) The actual rate charged is dependent upon the hourly rate of the employee assigned to the project.
The rates shown are subject to change.

Effective: July1, 2022

Expires: June 30, 2023

SEH SCHEDULE OF EXPENSES – 2022

VEHICLE MILEAGE RATES

2022 IRS Rate \$0.625/mile

VEHICLE ALLOWANCE COSTS

Resident Project Representative\$16.00/day

Survey and Field Vehicle \$4.90/hour + \$0.625/mile

SURVEY EQUIPMENT

Robotic Total Station\$35.00/hour

Global Positioning System (GPS)\$35.00/hour

Underground Utility Locating Equipment (UULE)..... \$32.00/hour

COMPUTER EQUIPMENT

Computer Charges per Direct Hour of Labor \$6.00/hour

OTHER EQUIPMENT EXPENSES

SEH uses many different types of equipment, such as traffic counters; flow meters; air, water, and soil sampling kits; inspection cameras; density meters; and many others. Our equipment is frequently upgraded to utilize current technology. You will be charged for equipment usage per your agreement with SEH.

Rates are subject to change.

IDENTIFIABLE REPRODUCTION AND REPROGRAPHIC COSTS ^{(1) (2)}

Item	8½x11	11x17	Large Format	Per Item
Black/White Copy ⁽³⁾	0.07	0.24	0.95 + 0.05/sq. ft.	
Color Copy ⁽³⁾	0.46	1.02	0.95 + 2.55/sq. ft.	
Mylar			5.00	
CD Copy				3.00
Lamination	2.00	3.50	3.50/sq. ft.	
Laminated Foamcore				
- up to 30"x42"			40.00	
- larger than 40"x60"			75.00	
3-Ring Binder	size	2"	3"	4"
	cost	3.20	4.80	5.60
Machine Folding				0.02
Binding				
- wire				3.60
- comb				3.20
Covers				
- custom				0.15
- blank				0.03
Tabs (white)				0.20
Mailing/Processing				UPS or USPS rates

⁽¹⁾ prices include operator time

⁽²⁾ prices denote single-sided printing

⁽³⁾ standard stock, white paper used for pricing

Prices are subject to change.

SCHEDULE 3

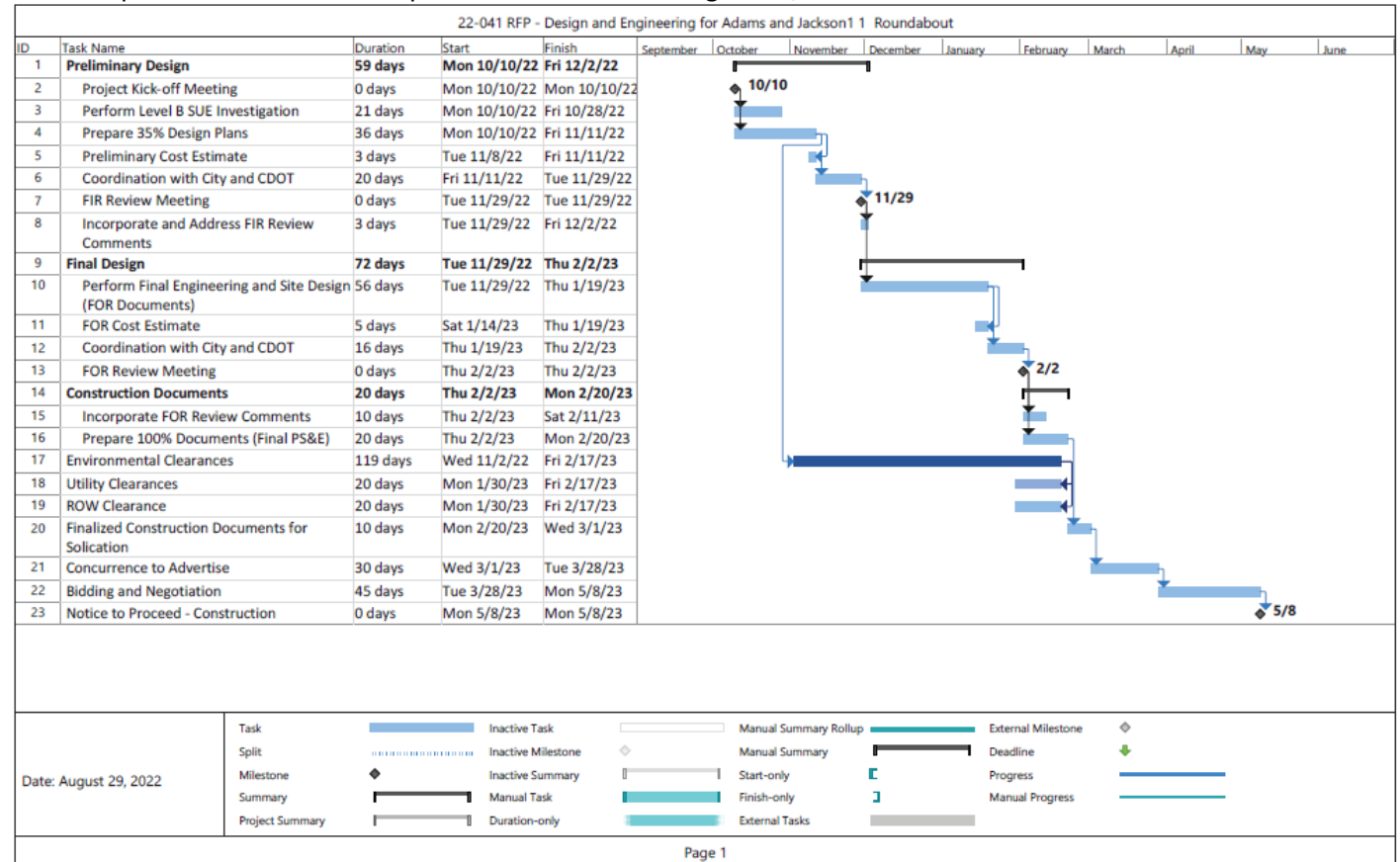
Work Schedule

Excerpt from Consultant's Proposal Submittal dated August 29, 2022

The SEH team understands what the City of Pueblo's proposed schedule involves for the design and engineering for the Adams and Jackson Roundabout and the need to meet CDOT design specifications. We are committed to supporting you in achieving your deadline. The schedule at right highlights the target milestone dates that, if agreed upon by all parties, will provide the best opportunity to complete the design within the required timeframe.

The SEH Western Region has an engineering backlog for many disciplines over the next 12 months that equals approximately 50 percent of the total capacity of our current regional staff. The SEH team chosen for your project has the capacity and capability necessary to complete the design and engineering for Adams and Jackson Roundabout project within the schedule presented.

*Schedule does not anticipate preparation of Right-of-Way Plans or additional survey required to be performed by the City of Pueblo for design efforts.



SCHEDULE 4

Identification of Personnel, Subcontractors, and Task Responsibility

Excerpt from Consultant's Proposal Submittal dated August 29, 2022, pages 3 - 17

SEH opened our active Pueblo office in 2004. Since then, our emphasis on serving this community has only grown. The City will benefit from the strong guidance that SEH's local civil engineering team can provide regarding this roundabout project. We'll help take your project from concept to reality. SEH's strength is our ability to analyze field conditions and develop accurate, site specific plans to meet our client's goals and stay focused on the end product, not the path.

PRIME CONSULTANT

SHORT ELLIOTT HENDRICKSON INC. (SEH®)

SEH is an employee-owned engineering, architectural, environmental and planning company that helps government, industrial and commercial clients find answers to complex challenges. This year, we are celebrating 94 years in business.

Our 800-plus professional staff share a core purpose: Building a Better World for All of Us®. This approach reflects a company-wide commitment to improving the quality of life by focusing on these market areas: mobility, better places, clean water and infrastructure renewal.

Headquartered in St. Paul, Minnesota, and with 33 offices in 11 states, you'll find evidence of our work throughout Colorado and the United States. **SEH employs approximately 95 professionals in Colorado, and for the past 21 years we have served Colorado** by providing our expertise in design, rehabilitation, maintenance and construction to local communities similar to the City of Pueblo.

On this project, we have employees in our Pueblo office who understand the local challenges faced by City of Pueblo staff when it comes to expanding and upgrading its transportation infrastructure. SEH takes a total team approach that includes building strong, productive partnerships with our clients and agency stakeholders, such as CDOT. We will help the City, as an extension of your staff, to create a successful project, while making the most out of every dollar available.

CONTACT INFORMATION

503 N. Main Street, Ste. 225
Pueblo, CO 81003
719.423.7400 (main)
888.908.8166 (fax)

Project Manager/ Local Contact

James (Jimmie) Hayson, PE
719.468.8373
jhayson@sehinc.com

SHORT ELLIOTT HENDRICKSON INC.

Founded in
1927

EMPLOYING

800+

engineers, architects,
planners, scientists and
talented professionals

WHO WORK TOGETHER TO SERVE

4 market areas: mobility,
better places, clean water
and renewing infrastructure



AN IMPRESSIVE **80%**

80% of our clients are
repeat customers

SUBCONSULTANTS



VIVID ENGINEERING GROUP, INC. (VIVID)

VIVID provides geotechnical, environmental and construction support services focused on transportation, water, energy, utility, government and commercial market sectors, for which their principals have more than 120 years of collective experience. Vivid is currently comprised of four principal owners and 40 additional staff.

VIVID has two office/lab locations: 1053 Elkton Drive, Colorado Springs, CO 80907; and 3885 Forest Drive, Denver, Colorado 80207. Vivid's lab facilities are AASHTO, AMRL/CCRL certified and full-service geotechnical and construction materials testing laboratories for soil, aggregate, concrete and asphalt testing.

VIVID's professional engineers and support staff that are slated for this project have decades of practical experience including a significant amount of open-channel and drainage-related experience for numerous entities including the City of Colorado Springs, Colorado Springs Utilities, El Paso County, Fountain Watershed and numerous other city and county agencies within Colorado. The geotechnical services for this project will be led by William (Bill) J. Barreire, PE. As presented in his resume, Bill provides an unparalleled collection of experience that is directly relevant to this project.



PINYON ENVIRONMENTAL, INC. (PINYON)

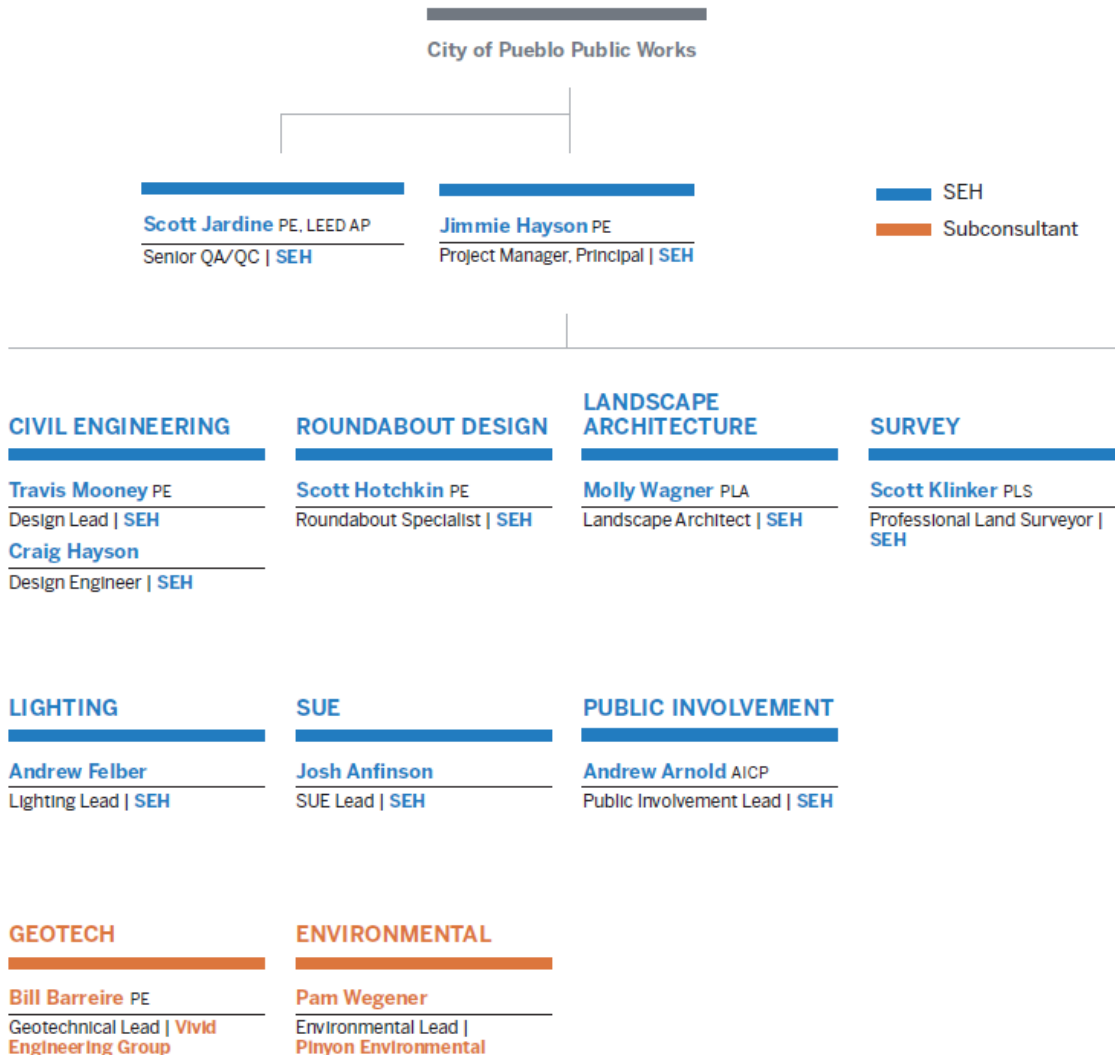
Since 1993, Pinyon Environmental, Inc. (Pinyon), has provided demonstrated environmental consulting services to a wide variety of clients in both the private and public sectors. Pinyon is a woman-owned consulting firm and certified Disadvantaged Business Enterprise headquartered in Lakewood, Colorado with a satellite office in Colorado Springs. The company employs approximately 80 environmental professionals. Services offered include:

- Air Quality and Noise
- Biological Resources
- Cultural Resources
- Engineering and Compliance
- Industrial Hygiene
- Landscape Architecture
- NEPA and Planning
- Site Characterization and Remediation
- Sustainability and Resiliency

Pinyon has built an environmental practice specializing in transportation—the firm understands the evolving needs related to environmental services throughout the transportation life cycle. Pinyon's experience on transit and roadway projects includes customized services in National Environmental Policy Act (NEPA)-compliant studies, technical assessments, mitigation planning, permitting and environmental compliance during project delivery. A key advantage of Pinyon is that the firm employs technical experts across numerous disciplines that know the connections resources have under NEPA, as well as myriad other environmental rules and regulations. Pinyon holds a state-wide Non-project Specific contract with CDOT to conduct these services, demonstrating the firm's understanding of CDOT and FHWA processes and expectations.

KEY INDIVIDUALS

This section describes the professional qualifications, availability and experience of the team members selected for the City of Pueblo's Design and Engineering for the Adams and Jackson Roundabout Project. Led by Jimmie Hayson, PE, out of our downtown Pueblo office, our team is composed of engineers, planners, landscape architects and construction services professionals who are available and committed over the lifetime of this project. The individuals shown below are key personnel for the project.



The specific licenses and credentials of the team members are described in the personnel and/or resume section of this document.

JIMMIE HAYSON PE

PROJECT MANAGER, PRINCIPAL | SEH

Jimmie is a civil engineer with extensive experience providing project management, design, planning, construction administration and inspection for various civil and municipal engineering projects. His project experience includes street and utility reconstruction, storm drainage improvements, wastewater improvements, master plans, site development for residential and commercial sites, residential and commercial foundation systems, storm drainage improvements and individual sewage disposal systems for residential and commercial sites.

EXPERIENCE

Spaulding Avenue Roundabout (Pueblo West Metropolitan District) - Pueblo West, CO

Project manager for project. Pueblo West Metro District was the recipient of three High Risk Rural Road Safety grants administered through the Colorado Department of Transportation, of which the Spaulding Roundabout ranked as priority. SEH prepared the design of this three-legged roundabout near Pueblo West High School to address safety concerns resulting from lengthy queued vehicles during peak hours and impeding emergency vehicle access. SEH performed modeling, preliminary layout, final design and construction phasing services.

Trinidad Five Points Roundabout Feasibility Study (City of Trinidad) – Trinidad, CO

Project Manager for the conceptual roundabout layouts for the design of the 'Five Points' intersection just off I-25 Exit 14 in Trinidad, Colorado. The projected objective was to perform design services for a new roundabout that would guide drivers safely into Trinidad for this confusing five-point intersection. SEH investigated three roundabout options and one intersection re-configuration option. The City of Trinidad preferred option was to re-configure the intersection to traditional four-legged intersection.

Peakview Avenue/Peoria Street Roundabout (City of Centennial) – Centennial, CO

Quality assurance manager for this project involved the design of a multilane roundabout at the intersection of Peakview Avenue and Peoria Street. Work included surveying and mapping, traffic analysis, conceptual and final layout, grading, LED lighting, right-of-way and easement legal descriptions, coordination with adjacent property owners and Arapahoe County Water and Wastewater Authority and drainage. Drainage design addressed water quality requirements for the Cherry Creek Basin Authority. The project construction budget was about \$1.1 million.

I-25/Dillon Drive Interchange Improvements (City of Pueblo) – Pueblo, CO

Engineer. SEH led a consultant team tasked with securing approvals of the engineering studies and conceptual engineering design and continuing design through bid documents and engineering services during construction for the I-25/Dillon Drive Interchange Improvements project. The project included a two-span bridge, 170 ft. long precast concrete bridge, 33,400 sq. ft. of block face mechanically stabilized earth walls, two roundabouts and seven miscellaneous structures associated with project drainage and utilities. The drainage structures included a sediment forebay stilling basin, outlet structure, rigid boundary baffle chute, pipe/culvert connection box and a forebay slab.



Jimmie will be the Project

Manager and lead point of contact

to the City. His local presence and

availability will benefit the City as

extension of your staff.

26
YEARS OF
EXPERIENCE



EDUCATION

Bachelor of Science
Civil Engineering Technology
University of Southern
Colorado-Pueblo

Associate of Science
Otero Junior College - La Junta, CO



REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO, AZ, ID,
NM, NV, SD, TX, UT, WI, WY



AVAILABILITY

50%

SCOTT HOTCHKIN ^{PE}

ROUNDAABOUT SPECIALIST | SEH

Scott is SEH's roundabout and complex intersection design expert and has spent all his 22 years of experience refining his expertise. Scott's roundabout experience includes the analysis and design of more than 200 roundabouts – including 15 mini-roundabouts – in Colorado, Wisconsin, Minnesota, Iowa and Indiana. Scott is proficient in the roundabout analysis softwares RODEL, HCS and SIDRA. Along with the analysis software, Scott also regularly utilizes Autoturn Pro to verify the design and check vehicles can navigate the roundabouts both horizontally and vertically.

EXPERIENCE

I-25/Dillon Drive Interchange Improvements (City of Pueblo) – Pueblo, CO

Lead roundabout design engineer this SEH led a consultant team tasked with securing approvals of the engineering studies and conceptual engineering design and continuing design through bid documents and engineering services during construction for the I-25/Dillon Drive Interchange Improvements project. The project included a two-span bridge, 170 ft. long precast concrete bridge, 33,400 sq. ft. of block face mechanically stabilized earth walls and seven miscellaneous structures associated with project drainage and utilities.

Spaulding Avenue Roundabout (Pueblo West Metropolitan District) - Pueblo West, CO

Lead roundabout design engineer for project. Pueblo West Metro District was the recipient of three High Risk Rural Road Safety grants administered through the Colorado Department of Transportation, of which the Spaulding Roundabout ranked as priority. SEH prepared the design of this three-legged roundabout near Pueblo West High School to address safety concerns resulting from lengthy queued vehicles during peak hours and impeding emergency vehicle access. SEH performed modeling, preliminary layout, final design and construction phasing services.

Wolfensberger Roundabout Design – Town of Castle Rock, CO

Lead roundabout design engineer on the design to replace an existing four-way stop controlled intersection with a roundabout. The project scope included analyzing existing intersection operations; determining ideal lane configurations and adequate size for the new roundabout; evaluating roundabout location and related site impacts; and developing design plans, construction phasing and work zone traffic control plans.

Founders Parkway (SH 86), Fifth Street and Ridge Road Intersection Improvements – Town of Castle Rock, CO

Lead design engineer responsible for the RODEL analysis, conceptual and preliminary design alternatives of roundabout. The project included roundabout design, drainage design, plan preparation, cost estimating and coordination with the Town and CDOT.

Peakview Avenue/Peoria Street Roundabout – City of Centennial, CO

Lead roundabout design engineer responsible for RODEL analysis, conceptual layout and final design of the multilane roundabout. Deliverables included surveying and mapping, traffic analysis, conceptual and final layout, grading, LED lighting, ROW and easement legal descriptions, coordination with adjacent property owners and Arapahoe County Water and Wastewater Authority, and drainage design.



23

YEARS OF
EXPERIENCE



EDUCATION

Bachelor of Science
Civil Engineering
University of Minnesota-Minneapolis

Bachelor of Science
Math and Physics
Augustana College - Sioux Falls, SD



REGISTRATIONS/CERTIFICATIONS

Professional Engineer in IN, MN, SD,
WI, CO, NC, IL, IA, TX, VI, NE



AVAILABILITY

30%

SCOTT JARDINE PE, LEED AP®

SENIOR QA/QC | SEH

Scott will perform quality assurance/quality control (QA/QC) reviews of the design. He brings a high level of detail and extensive experience in roadway and pedestrian improvements as well as proven management for high-profile projects. He has worked with water supply and distribution systems, sanitary sewer systems, storm drainage systems and street and roadway projects. Scott is also experienced in performing construction management and administration.

EXPERIENCE

Crystal Valley Roundabout (Town of Castle Rock) – Castle Rock, CO
Project Manager. This project at Crystal Valley Parkway and Plum Creek Boulevard in the Town of Castle Rock replaces the existing 2-way, stop controlled intersection with a roundabout configuration. The roundabout maintains major arterial traffic on Crystal Valley and collector traffic on Plum Creek while accommodating an ADA pedestrian sidewalk and crosswalks and on-street bike lanes on roadway grades exceeding 7 percent.

Wolfensberger Roundabout Design (Town of Castle Rock) – Castle Rock, CO
Senior quality control review engineer. SEH provided a roundabout design to replace the existing four-way stop controlled intersection. The scope included analyzing intersection operations; determining ideal lane configurations and adequate size; evaluating location and related site impacts; and developing design plans, construction phasing and work zone traffic control plans.

North Chelton Road Drainage (City of Colorado Springs) – Colorado Springs, CO
Project manager. SEH designed roadway drainage improvements to benefit a residential neighborhood experiencing flooding. Preliminary design included vetting private storm improvements on a school site to ensure future upstream system expansion. The design included a new storm system in the roadway to bisect the watershed and add inlets to the surrounding street and connect to the existing downstream storm sewer, roadway reconstruction and watermain replacement.

Barnes Road Widening (City of Colorado Springs) – Colorado Springs, CO
Senior quality control review engineer. SEH provided the preliminary and final design for the widening of Barnes Road. The project improved a ½ mile section of Barnes Road by providing a four-lane median separated roadway, bicycle lanes, a new traffic signal, storm water quality and detention.

19th Street Rehabilitation (City of Cheyenne) – Cheyenne, WY
Senior project manager and engineer who led the overall utility design and construction management for phases 1 and 3. Areas of oversight included review and mapping of existing infrastructure, utility coordination, agency coordination and approvals, concept design layout, construction plans, specifications, observation and administration, and cost estimates.

U.S. Highway 34 Roadway Widening Project (City of Loveland) – Loveland, CO
Lead utility coordinator on the project to reconstruct and widen Highway 34 to three lanes in each direction. Project deliverables included design of a third through-lane in each direction, addition of bike lanes and pedestrian paths, new traffic signals, utility coordination and right-of-way acquisition.



27
YEARS OF
EXPERIENCE



EDUCATION

Bachelor of Engineering Science
Civil and Environmental Engineering
University of Western Ontario

Bachelor of Arts
Economics
University of Western Ontario



REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO

LEED AP, U.S. Green Building Council



AVAILABILITY

15%

TRAVIS MOONEY PE

DESIGN LEAD | SEH

Travis has worked in the Durango area as a geotechnical analyst, a commissioning engineer and a solar power design engineer. After joining the company, Travis has contributed on projects involving road and utility infrastructure capital planning, design, cost estimating, construction inspections and administration, grant applications, traffic and drainage analyses



EXPERIENCE

Crystal Valley Roundabout (Town of Castle Rock) – Castle Rock, CO

Project engineer responsible for working on specifications for final design. Additionally, Travis will be involved in construction phasing and traffic control, during construction of the new roundabout.

Aztec North Main Extension (City of Aztec) – Aztec, NM

Project engineer who performed civil design for extending the City of Aztec, New Mexico's North Main Avenue, including a roundabout at the north terminus of the extension project. The scope of work included the design of the roundabout, utility extensions, floodplain determination and LOMR application, easement acquisition, survey and landscape. Public engagement played a large role in building consensus for the corridor to accommodate pedestrians, bicycles and automobiles.

On-Call Engineering Services (City of Salida) – Salida, CO

Project engineer. The City of Salida selected SEH to perform various on-call tasks. These include the development of striping plans, conceptual designs of pedestrian facilities including rapid rectangular flashing beacons (RRFB) funded by the CDOT Multimodal Options Fund (MMOF), and street reconstruction projects featuring pedestrian bumpouts and crossings compliant with Public Rights-of-Way Accessibility Guidelines (PROWAG).

Aspen Ridge Estates (JMG & LRG Properties LLC) – Durango, CO

Project engineer who performed design for a 12-lot subdivision (with consideration for 14 more lots). SEH was hired to perform engineering design for this residential development. The team modeled drainage and designed road networks that would not impact the existing residences downhill.

Durango La Plata Airport Terminal Area Plan (Dibble Engineering) – Durango, CO

Project engineer responsible for site exhibits for the Master Development Plan for Durango-La Plata Airport. The Terminal Area Plan (TAP) will study multiple options for future development of the airport facility including terminal expansion and access and parking improvements to accommodate expected growth. SEH's Durango civil engineering team is leading the planning efforts for the landside development, which includes incorporating the recent acquisition of an adjacent 12-acre parcel into the future plan.

12

YEARS OF
EXPERIENCE



EDUCATION

Bachelor of Science
Engineering Physics
Fort Lewis College



REGISTRATIONS/CERTIFICATIONS

Professional Engineer In CO



AVAILABILITY

60%

CRAIG HAYSON

DESIGN ENGINEER | SEH

Craig is a graduate engineer with experience in civil engineering and construction administration and inspection. His experience includes civil site design, utility design and site grading. Craig is proficient in AutoCad Civil 3D.



EXPERIENCE

Spaulding Avenue Roundabout (Pueblo West Metropolitan District) - Pueblo West, CO

Graduate engineer for project. Pueblo West Metro District was the recipient of three High Risk Rural Road Safety grants administered through the Colorado Department of Transportation, of which the Spaulding Roundabout ranked as priority. SEH prepared the design of this three-legged roundabout near Pueblo West High School to address safety concerns resulting from lengthy queued vehicles during peak hours and impeding emergency vehicle access. SEH performed modeling, preliminary layout, final design and construction phasing services.

HRRR Safety Projects (Pueblo West Metropolitan District) – Pueblo West, CO

Graduate engineer for two HRRR Grant projects administered through CDOT. The projects consisted of safety improvements such as lane widening, turn lanes, signing and striping. Project responsibilities included horizontal and vertical layouts and modeling, utility relocation design and preparation of specifications and cost estimates.

North Mesa Safe Routes to School (SRTS) Construction Administration (Pueblo County Facilities) – Pueblo, CO

Resident project representative responsible for construction administration of this 3,000+ LF trail project administered through the CDOT SRTS Program. Craig's responsibilities included construction observation and oversight of construction administration to ensure that final documentation was reasonable and justifiable. This CDOT Local Agency Safe Routes to School trail project included a 6 ft. wide, 3,000 lf long concrete sidewalk that connected 30th Lane and 29th Lane along Gale Road and Windrow Road to North Mesa Elementary School. The project required coordination with existing Gale Road improvements by Pueblo County Public Works, and the acquisition of additional right-of-way.

TAP Trail 3 (Pueblo West Metropolitan District) – Pueblo West, CO

Design engineer for this Local Agency Transportation Alternatives Program (TAP) project funded through the CDOT. The trail alignment is being constructed in the existing SDS (Southern Colorado Delivery) corridor connecting Industrial Boulevard to Purcell Boulevard and a from the SDS/Industrial Boulevard intersection to the west connecting to the CDOT Region 2 Purcell Interchange project. The 2.6-mile trail is a 8 ft. wide asphalt section with a 4-ft. gravel shoulder soft trail that meanders along the alignment, crossing public streets.

Northern Ave Trail Ph 3 (City of Pueblo) – Pueblo, CO

Graduate engineer. The project consists of design of a trail and streetscape along Northern Avenue between Cambridge Avenue and Prairie Avenue, and along the west side of Prairie Avenue to Mesa Avenue. Additionally, signalization design was involved to upgrade the easterly signals on Prairie Avenue. The project is funded through the Colorado Department of Transportation -Transportation Alternatives Program, which required design to be in compliance with FHWA guidelines.

4

YEARS OF
EXPERIENCE



EDUCATION

Bachelor of Science
Civil Engineering Technology
Colorado State University-
Pueblo, CO

Associate of Arts
Pueblo Community College -
Pueblo, CO

Associate of Science
Pueblo Community College -
Pueblo, CO



AVAILABILITY

50%

MOLLY WAGNER PLA

LANDSCAPE ARCHITECTURE | SEH

Molly is a landscape architect and project designer with experience in educational, medical, cultural, residential, municipal, international and master planning projects. She provides effective communication with clients and contractors from concept to construction, leveraging the use of graphics such as rendered plans, sections, elevations, plant and material boards as well as construction documents to convey design intent. Her time spent working in the Pacific Northwest instilled in her a passion for stormwater and creating sustainable landscapes. Molly is proficient in AutoCAD and the Adobe Creative Suite.

EXPERIENCE

Kings Highway Roundabout and Gateway (A&Z Engineering) – Winona Lake, IN
Landscape architect responsible for initial design concepts and QA/QC of construction documents. The project features new gateway signage and extensive native and ornamental planting areas designed to mark the transition between Winona Lake and the neighboring City of Warsaw. Deliverables included artistic renderings, construction drawings and specifications.

S. Main Street-Gaarder Road Roundabout (Village of Holmen) – Holmen, WI
Landscape architect for this project, which involves design and construction of a new, single-lane roundabout to resolve deteriorated pavement and capacity issues. SEH deliverables include geometric design, corridor design, pavement marking, signing, landscaping and traffic control design. The project will be built under staged construction.

Crystal Valley Fire Station (Castle Rock Fire Department) – Castle Rock, CO
Landscape architect responsible for quality assurance review of all construction documents. The 13,000 sq. ft. station includes three drive-thru vehicle bays, living quarters for eight firefighters, a full kitchen, pantries, exercise, gear, restroom, work area, day room and storage. SEH has provided architectural design, site planning, civil engineering and structural engineering as well as all municipal approvals and community outreach efforts. In addition, SEH completed facility assessments that included site capability, turnout time, station functionality, code requirements and accessibility. Although LEED Certification has not been pursued, LEED Principles have been incorporated into the design.

Pueblo County Old Judicial Building (Pueblo County Department of Public Works) – Pueblo, CO

Landscape architect for the assessment of the existing 73,000 sq. ft. facility—previously used as a judicial court building—included structural, mechanical and electrical review as well as architectural and accessibility review for the existing building's systems. Programming, cost estimating and design is currently underway to renovate the facility to meet the current and future needs. This includes the addition of communal staff breakout areas, updated open-office spaces and community conference space. A space need analysis was also performed for current and future growth of the Pueblo County Department of Social Services.



15
YEARS OF
EXPERIENCE



EDUCATION

Master of Landscape Architecture
University of Minnesota-Twin Cities

Bachelor of Arts
Biology
Gustavus Adolphus College -
St. Peter, MN



REGISTRATIONS/CERTIFICATIONS

Landscape Architect in CO, IN, OR, WI



AVAILABILITY

20%

SCOTT KLINKER PLS

PROFESSIONAL LAND SURVEYOR | SEH

Scott is a professional land surveyor with extensive experience providing services to municipalities, government agencies, developers, contractors and private clients. Scott's proficiency includes topographic, boundary, easement, horizontal/vertical control, design, building staking, bridge layout, airport layout and construction surveys. Scott is also experienced in construction quality control and has experience reviewing civil design drawings. Scott's various project experience involves CDOT/CDOT standards projects that include right-of-way plan sets and legal descriptions for right-of-way and easement acquisitions. Scott is also proficient in AutoCAD and MicroStation CAD programs. His attention to detail and years of experience guarantee a quality product is delivered to the client.



32
YEARS OF
EXPERIENCE

EXPERIENCE

HRRR Safety Projects (Pueblo West Metropolitan District) – Pueblo West, CO
Lead surveyor. The projects consisted of safety improvements such as lane widening, turn lanes and design of roundabouts at three locations. Project responsibilities included horizontal and vertical layouts and modeling, utility relocation design and preparation of specifications and cost estimates.

Wolfensberger Roundabout Design – Town of Castle Rock, CO
Land surveyor on the project to replace the existing four-way stop controlled intersection with a roundabout. The scope included analyzing the existing intersection operations; determining ideal lane configurations and adequate size for new roundabout; evaluating roundabout location and related site impacts; and developing design plans, construction phasing and work zone traffic control plans.

Crystal Valley Fire Station (Castle Rock Fire Department) – Castle Rock, CO
Land surveyor on the project to design a new 13,000 sq. ft. station including three drive-thru vehicle bays, living quarters for eight firefighters and multiple additional amenities. SEH provided architectural design, site planning, civil and structural engineering, as well as all municipal approvals and community outreach efforts.

Peakview Avenue/Peoria Street Roundabout – City of Centennial, CO
Land surveyor on the project involving design of a multilane roundabout. The project scope included surveying and mapping, traffic analysis, conceptual and final layout, grading, LED lighting, ROW and easement legal descriptions.

Founders Parkway (SH 86), Fifth Street and Ridge Road Intersection Improvements – Town of Castle Rock, CO
Land surveyor on the project involving roundabout design, drainage design, plan preparation, cost estimating and coordination with the Town and CDOT.

Trinidad Five Points Roundabout Feasibility Study (City of Trinidad) – Trinidad, CO
Land surveyor for the design of the 'Five Points' intersection just off I-25 Exit 14 in Trinidad, Colorado. The projected objective was to perform design services for a new roundabout that would guide drivers safely into Trinidad for this confusing five-point intersection. SEH investigated three roundabout options and one intersection re-configuration option. The City of Trinidad preferred option was to re-configure the intersection to traditional four-legged intersection.



EDUCATION

Associate in Applied Science
Civil Engineering
St. Cloud Technical College - St.
Cloud, MN



REGISTRATIONS/CERTIFICATIONS

Professional Land Surveyor in CO



AVAILABILITY

25%

ANDREW FELBER

LIGHTING LEAD | SEH

Andrew is a design technician with extensive electrical engineering experience. He's has been involved with facility electrical and roadway lighting design, as well as construction inspection for government agency projects. Andrew has designed lighting, communication and power distribution in new and remodeled buildings. He has worked on power distribution designs that include standby generation, feeders and low voltage services.



EXPERIENCE

Spaulding Avenue Roundabout (Pueblo West Metropolitan District) - Pueblo West, CO

Lead electrical designer. Pueblo West Metro District was the recipient of three High Risk Rural Road Safety grants administered through the Colorado Department of Transportation, of which the Spaulding Roundabout ranked as priority. SEH prepared the design of this three-legged roundabout near Pueblo West High School to address safety concerns resulting from lengthy queued vehicles during peak hours and impeding emergency vehicle access. SEH performed modeling, preliminary layout, final design and construction phasing services.

Wolfsenberger Roundabout Design (Town of Castle Rock Public Works Department) – Castle Rock, CO

Lead electrical designer. SEH provided a roundabout design to replace the existing four-way stop controlled intersection. The scope included analyzing the existing intersection operations; determining ideal lane configurations and adequate size for new roundabout; evaluating roundabout location and related site impacts; and developing design plans, construction phasing and work zone traffic control plans.

Peakview Avenue/Peoria Street Roundabout (City of Centennial) – Centennial, CO

Lead electrical designer. This project involved the design of a multilane roundabout at the intersection of Peakview Avenue and Peoria Street. Work included surveying and mapping, traffic analysis, conceptual and final layout, grading, LED lighting, right-of-way and easement legal descriptions, coordination with adjacent property owners and Arapahoe County Water and Wastewater Authority and drainage. Drainage design addressed water quality requirements for the Cherry Creek Basin Authority. The project construction budget was about \$1.1 million.

I-694/Rice Street Interchange (Ramsey County) – Shoreview, MN

Electrical designer. SEH was responsible for all construction observation and construction surveying for this all important Ramsey County project. The construction will convert the existing diamond interchange into an offset, single point interchange. Four existing signal systems will be replaced with three roundabouts at the single point ramp connections. The use of roundabouts will improve efficiency and safety as well as reduce maintenance costs. The project will improve economic development in the area and will also dramatically improve pedestrian facilities by adding sidewalks along both sides of Rice St. and extending the Trout Brook Regional Trail through the corridor.

14

YEARS OF
EXPERIENCE



EDUCATION

Associate of Applied Science
Electrical Construction Design and
Management
Dunwoody College of Technology -
Minneapolis, MN



REGISTRATIONS/CERTIFICATIONS

Design and Inspection Certification,
Minnesota Department
of Transportation



AVAILABILITY

25%

JOSH ANFINSON

SUE LEAD | SEH

Josh is the Director of Subsurface Utility Engineering with 19 years of experience specifically focused on utility design, coordination and relocation. He has directed and managed SUE and utility coordination projects for 16 years which enables him to understand and mitigate various conflicts on complex projects. He has managed complex projects involving large groups of technical employees and consultants, as well as multiple project phases from schematics and PSE stages through construction. He is knowledgeable and compliant with applicable rules, regulations, plans and specifications.



20

YEARS OF
EXPERIENCE

EXPERIENCE

St. Vrain Sanitary Sewer Extension (Mountain Homes) – Colorado City, CO
Subsurface utility engineering manager. Josh led the efforts for the SUE investigation for this 1,300 lineal foot corridor for design of a sanitary sewer extension along St. Vrain Avenue in Colorado City. Duties included the coordination with utility providers for mapping, oversight of utility locates and review of Quality Level reporting.

South Prairie Avenue Improvements (City of Pueblo) – Pueblo, CO
Subsurface utility engineering manager. Josh led the efforts for the SUE investigation for three signalization areas along the South Prairie Avenue corridor. Duties included the coordination with utility providers for mapping, oversight of utility locates and review of Quality Level reporting.

EXPERIENCE PRIOR TO JOINING SEH

SH 136, Amarillo to Fritch (36-71DP5135) (HW Lochner, Inc.) – Amarillo, TX
Josh was responsible for Level B designating of all utilities in designated areas where road construction and culvert extensions were taking place, including all electric, fiber, telephone, gas and traffic lights in conflict.

St. Mary's Street, Mistletoe to Josephine (Gonzales de la Garza & Associates) – San Antonio, TX

Josh was responsible for utility coordination and SUE Level A and Level B. Josh and team also designed the replacement of approximately 2,900 LF of CPS Energy gas main along North St. Mary's Street to include side streets between the project limits. Design of the gas main varied between 4-in. to 8-in. HDPE and the abandonment of the existing steel gas main. The design met CPS Energy engineering and drafting standards.

WA1 - IH45S (AIA #5016) (Texas Department of Transportation) – Galveston, TX
Josh was the project manager responsible for compliance of contract documents and handling of any field issues. The project was for the expansion of interstate 45. Survey working was done in conjunction with the subsurface utility engineering and design and included mapping of water, wastewater, gas, oil pipelines, traffic signals, high mass lighting, fiber, duct banks, cable television, state fiber and illumination and storm sewer.

WA3 - CED 367IDP5017 (Texas Department of Transportation) – Divot, TX
Josh was the SUE manager responsible for survey work in conjunction with the subsurface utility engineering and design for the expansion of Interstate 10 in the East San Antonio area.



EDUCATION

40 PDU/4 CEU
Trenchless Technology
Louisiana Tech University



REGISTRATIONS/CERTIFICATIONS

Confined Space Entry Training
OSHA 10-Hour Training
OSHA 30-Hour Training



AVAILABILITY

20%

ANDY ARNOLD AICP

PUBLIC INVOLVEMENT LEAD | SEH

Andy is a regional planner trained to work with both the public and private sectors to ensure that development is politically, financially and equitably feasible. His work spans the community development spectrum, from strategically targeting federal and state grants for communities, to providing cost allocation models for public infrastructure, to reviewing developer pro-formas for tax increment financing. Prior to joining SEH, he finished a master's degree at Cornell University, focusing his studies on sustainable development in water scarce regions of the U.S. His thesis explored public-private partnerships between developers and local municipalities; modelling financial tools they can use to extend public infrastructure and encourage development with significant community benefits. He has applied this knowledge to economic development projects throughout the Four Corners region, most recently helping the City of Durango form its first Urban Renewal Authority. Since joining SEH, Andrew has been responsible for a variety of project tasks including land entitlement support, stakeholder engagement, land-use planning and transportation data analysis.

EXPERIENCE

Farmington Metropolitan Planning Organization Bicycle and Pedestrian Plan Update (City of Farmington) – Farmington, NM

Andy organized a public outreach campaign that culminated in an updated Bicycle and Pedestrian Plan for the Farmington Metropolitan Planning Organization. Andy organized stakeholder meetings, conducted public outreach at community events and collected and analyzed transportation data to create maps of potential multi-modal connections across four municipalities. The campaign received over 1,000 comments regarding multimodal transportation in the community. This information was utilized to draft and adopt an updated Bicycle and Pedestrian Plan for the MPO, with a focus on improving safety, health and recreation opportunities in the area. Through the extensive public engagement process, the SEH Team identified opportunities, developed solutions to problems, prioritized projects and created planning level estimates to address all deficiencies.

La Posta Road Sewer Plan (La Plata County Economic Development Alliance) – La Plata County, CO

Andy helped evaluating financial strategies to fund public infrastructure extensions throughout the La Posta Road area, with a specific focus on the applicability of Tax Increment Financing and supplemental grants. This work involved multiple design charrettes with key stakeholders, property owners, and public entities. Andy combined this public outreach into financial models that provided key assessments for extending sewer infrastructure throughout the La Posta Area.

Boxelder Dam Assessments (Larimer County) – Larimer County, CO

Andy helped negotiate an agreement between Larimer County, Fort Collins, Wellington and Timnath to finance an emergency flood warning system for the Boxelder dam network. The negotiation involved creating a cost allocation model and required multiple rounds of public input. Andy led discussions with key representatives from the County, municipalities, and irrigation districts on how best to assign cost based on flooding impacts. The project entailed detailed GIS analysis that was used to quantify dam impacts on each municipality.



4
YEARS OF
EXPERIENCE



EDUCATION

Master of Urban and
Regional Planning
Cornell University-Ithaca, NY

Bachelor of Arts
Social Anthropology
Cornell University-Ithaca, NY



REGISTRATIONS/CERTIFICATIONS

Certified Planner, American Institute
of Certified Planners (AICP)



AVAILABILITY

25%

BILL BARREIRE PE

GEOTECHNICAL LEAD | VIVID ENGINEERING GROUP

Bill is a registered Professional Engineer in Colorado with 28 years of local geotechnical experience including a significant amount of transportation and municipal infrastructure and facilities related experience for numerous entities including Colorado Department of Transportation (including CDOT Local Agency projects) City of Pueblo, County of Pueblo, and Pueblo West. His expertise includes providing geotechnical design recommendations and construction testing and inspection services for bridge foundations, minor structures, utilities, roadway embankment construction, slope and earth retention systems, pavements, utilities, and facilities for design-bid-build and alternative delivery such as design-build, P3, and CM/GC. Bill has delivered similar geotechnical services on over 50 projects in Pueblo between 2008 and 2021.

EXPERIENCE

CDOT R2, Hwy 50 & Purcell Interchange – Pueblo, CO

Bill was geotechnical engineer of record for this project that includes replacing the existing at grade intersection with a grade-separated intersection by constructing a bridge for Hwy 50 over Purcell Boulevard. Subsurface investigation, lab testing, and engineering were focused on the new embankment bridge approaches, retaining walls, bridge foundations, and minor structures. Project challenges included significant long-term settlement of existing saturated clay soils due to new embankment loads. Solutions included use of aggregate piers below MSE walls, and wick drains beneath embankment areas to address amount and duration of anticipated settlement. This also included preparing a settlement monitoring plan to be implemented during construction to ensure settlement was largely complete before constructing pavements or other movement sensitive project features.

Blackwell and Inman Drive Pavement Design – Pueblo West, CO

Bill was geotechnical/pavement design engineer for this project. The project included an approximate 140-foot-long portion of Blackwell Drive (just northeast of E. Platteville Road) was planned to be constructed with a new flexible composite (i.e., asphalt pavement over aggregate base course) pavement section. In addition, an approximately 290-foot-long portion of Blackwell Drive that will be adjacent the newly paved section, and a 70-foot-long portion of Inman Drive just northwest of Blackwell Drive was to receive a gravel surface comprised of CDOT Class 6 Aggregate Base Course (ABC) materials.

Northern Avenue Trail Phase 3 Traffic Signal Pole Replacements – Pueblo, CO

Bill was the geotechnical engineer for this traffic signal pole replacement project in Pueblo. The project included providing geotechnical design and construction recommendations for two new traffic signal pole drilled caisson foundations located near Prairie Avenue and Northern Avenue, as part of the larger Northern Avenue Trail project in Pueblo.

West 11th Street Bridge Replacement – Pueblo, CO

Bill was the geotechnical engineer on this project. The project included performing geotechnical engineering services that evaluated existing subsurface conditions and provided geotechnical design recommendations for subgrade preparation, pavement thickness design, bridge foundation design, and retaining wall design.



28
YEARS OF
EXPERIENCE



EDUCATION

Master of Science
Geotechnical Engineering
University of Colorado

Bachelor of Science
Civil Engineering
Colorado State University



REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO, TX, MT,
WY, NM, AZ



AVAILABILITY

20%

PAM WEGENER

ENVIRONMENTAL LEAD | PINYON ENVIRONMENTAL

Ms. Wegener is an environmental professional with seven years of experience specializing in analyses, documentation and permitting for transportation projects. She has experience managing Colorado Department of Transportation (CDOT) Categorical Exclusion (CatEx) and Planning and Environmental Linkages (PEL) studies and leads environmental constraints analyses. Pam's primary technical areas of expertise are biological resources, Water of the U.S. (including wetlands), watershed analyses, water quality and non-historic Section 4(f) and Section 6(f). She routinely manages multi-disciplinary teams of technical experts and collaborates with the design team on transportation projects to avoid, minimize and mitigate impacts and utilizes GIS and GPS technology for a variety of technical resources evaluations. She excels at clearly communicating what the environmental constraints and opportunities are to ensure that schedule and budget needs are met.



7
YEARS OF
EXPERIENCE



EDUCATION

Master of Science
Watershed Science
Colorado State University

Bachelor of Arts
Geology
Brown University



AVAILABILITY

20%

EXPERIENCE

South Powers Boulevard Extension (CDOT Region 2) – El Paso County, CO

Since 1963, Powers Boulevard was planned as a bypass alternative for Interstate 25 (I-25) along the eastern edge of the City of Colorado Springs. The current South Powers Boulevard Extension Study (Project) is focusing on the portion of Powers Boulevard extending South from Mesa Ridge Parkway (SH 16) to I-25, building upon the South Powers Boulevard Feasibility Study. El Paso County, Fountain, Colorado Springs, CDOT, Federal Highway Administration, and Pikes Peak Area Council of Governments are collaborating in a PEL study for the project. Pam led a multidisciplinary team of technical experts to assess environmental resources including air quality, noise, hazardous materials, visual, biological, water quality, environmental justice, recreational, cultural, context sensitivity, greenhouse gas and wildlife movement. Her team produced a Mapbook and environmental scan table that discussed current conditions, potential impacts from various alternatives, and next steps. This work provided a snapshot of existing conditions that decision makers could consider in advancing alternatives that meet the purpose and need of a future action.

Highway Safety Improvement Program (HSIP) Packages 1, 2, 4 and 5 (City and County of Denver) – Denver, CO

The City and County of Denver, in coordination with CDOT, is redesigning and reconstructing traffic signals within the City and County of Denver. Pam conducted desktop reviews and site visits for the project to assess existing biological conditions in accordance with federal and state regulations or policies, including the Colorado Non-game, Endangered, and Threatened Species Conservation Act, Bald and Golden Eagle Protection Act, Migratory Bird Treaty Act and Noxious Weed Act. She provided summaries of the results and recommendations for next steps in numerous memorandums.

SCHEDULE 5

Federal Highway Administration (FHWA) Contract Clauses including “CDOT Professional Services Local Agency Civil Rights & Disadvantaged Business Enterprise (DBE) Contract Requirements”

CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT REQUIREMENTS

Please refer to CDOT’s Local Agency Civil Rights Guidelines for more information: <https://www.codot.gov/business/civilrights/compliance/prof-services/overview>

The following requirements shall be applied to FHWA-assisted contracts.

I. DEFINITIONS

B2GNow. Web based platform utilized by CDOT to track Civil Rights compliance (DBE/ESB participation) and prompt payment requirements on its contracts. The Consultant will use this platform to submit Utilization Plan(s), Subconsultant and Supplier/Vendor information on the Contract.

CDOT Civil Rights. The CDOT Civil Rights office that assist with the contract and prompt payment requirements on contracts. This can be in either the region or headquarters.

Civil Rights and Business Resource Center (CRBRC). CDOT’s Civil Rights office at Headquarters.

Commercially Useful Function (CUF). Responsibility for the execution of work by actually performing, managing, and supervising the work, as described in 49 CFR Part 26.

Commitment. A portion of the Contract designated by the Consultant for participation by DBE firms. The DBE firm(s) are included in the proposal team for participation to meet the Contract Goal. Commitments must identify the work to be performed by the DBE and include the percentage of the contract committed to each DBE firm. Commitments are measured at the end of the contract and are calculated by the actual payments to a DBE firm divided by the total payments made under the Contract.

Contract. Agreement between the Local Agency and the Consultant, whereby the Consultant will be compensated in exchange for providing Professional Services and ancillary services. For purposes of this document, the term “Contract” refers to an individual, executed Task Order for an On-Call Agreement or a Master Contract (overarching agreement) for Project-Specific and Program-Specific Agreements.

Contract Goal Percentage. The percentage of the Contract established by CDOT for reasonable participation by DBEs and stated in the invitation for consultant services.

Consultant. An individual, firm, corporation, or other legal entity with a direct contractual relationship with the Local Agency’s solicitation to render Professional Services and ancillary services.

Disadvantaged Business Enterprise (DBE). A Colorado certified Disadvantaged Business Enterprise listed on the Colorado Unified Certification Program (UCP) DBE Directory at www.coloradodbe.org.

Emerging Small Business (ESB). A CDOT certified Emerging Small Business firm listed on the ESB Directory at www.coloradoesb.org.

Good Faith Efforts (GFE). All necessary and reasonable steps to secure the necessary Commitments to meet the Contract Goal or other requirements of this contract, which by their scope, intensity, and appropriateness to the objective could reasonably be expected to fulfill the contract requirement. Guidance on Good Faith Efforts to meet the Contract Goal is provided in 49 CFR Part 26, Appendix A.

Local Agency. The City of Pueblo.

Professional Services. The practice of architecture, engineering, professional land surveying, landscape architecture, and industrial hygiene as defined in Colorado Revised Statutes (CRS) 24-30-1402 and 48CFR Part 2.

Reduction. Reduction occurs when the Consultant reduces a Commitment to a DBE. A Reduction is a partial Termination.

Subconsultant. An individual, firm, corporation or other legal entity to whom the Consultant sublets part of the contract. For purposes of these requirements, the term Subconsultant includes Suppliers/Vendors.

Substitution. Substitution occurs when a Consultant seeks to find another certified DBE firm to perform work on the contract as a result of a Reduction or Termination.

Termination. Termination occurs when a Consultant no longer intends to use a DBE firm for fulfillment of a Commitment. This includes, but is not limited to, instances in which a Consultant seeks to perform work originally designated for a DBE Subconsultant with its own forces or those of an affiliate, a nonDBE firm, or with another DBE firm.

Utilization Plan (UP). The documentation of Subconsultant and Supplier/Vendor participation on the awarded Contract. The Utilization Plan details all Subconsultants and Suppliers/Vendors included as part of the proposal team and Commitments by percentage made by the Consultant. The Consultant must submit the Utilization Plan within five (5) calendar days of receiving notice from CDOT's B2GNow system.

Vendor. Participant on a CDOT contract that is providing services not considered to be a Professional Services as defined in Colorado Revised Statute 24-30-1402 and 48 CFR Part 2. A vendor would provide Non- Engineering Services (i.e. Geotechnical drilling, Public Information/Relations, traffic control, etc.) and would not be overseen by a licensed engineer.

Work Code. A code to identify the work that a DBE is certified to perform. A work code includes a six (6) digit North American Industry Classifications System (NAICS) code plus a descriptor. Work codes are listed on a firm's profile on the Colorado UCP DBE Directory at <https://coucp.dbesystem.com/>. The Local Agency may include CDOT in discussions for clarification. The consultant may contact the Civil Rights and Business Resource Center to receive guidance on whether a work code covers the work to be performed.

II. NONDISCRIMINATION AND SUBCONTRACTING REQUIREMENTS

The following requirements apply to all contracts and subcontracts on FHWA federally assisted contracts.

A. *Non-discrimination.* The Consultant, with regard to the work performed by it during the contract term, will not discriminate on the grounds of race, color, or national origin in the selection and retention

of Subconsultants, including procurement of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

B. *Civil Rights Act of 1964 Title VI.* CDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business

enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

C. *Consultant Assurance.* By submitting a proposal for this contract, the Consultant agrees to the following assurance: The consultant, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract. Such other remedy as deems appropriate, which may include, but is not limited to:

- Withholding monthly progress payments
- Assessing sanctions
- Liquidated damages
- Disqualifying the consultant from future bidding as non-responsible

D. *Prompt Payment.* Payments to all Subconsultants shall be made within seven (7) calendar days of receipt of payment from the Local Agency, or no later than ninety (90) calendar days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. The Local Agency will assist in enforcing the Civil Rights Requirements outlined above as well as prompt payment as outlined in 49 CFR, Part 26. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify the Subconsultant no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include failure to timely submit an invoice or to deposit payments made. The Consultant shall electronically submit prompt payment audit reports in B2GNow by the fifteenth (15th) of each month through the B2GNow software. If no payment has been made, the Consultant shall document this in the prompt payment audit reporting.

E. *Subcontract Terms.* Parts A-D of this section shall be included in all subcontracts or other agreements for the performance of work on the contract.

III. CONTRACT COMMITMENT

At the time of initial proposal, the Consultant must make a contractually binding guarantee to meet the Contract Goal in accordance with 49 CFR 26.53.

A. *Affidavit of Small Business Participation.* The Affidavit of Small Business Participation is the Consultant's contractually binding guarantee to meet the Contract Goal or make Good Faith Efforts to do

so. CDOT's *Affidavit of Small Business Participation* form must be submitted with the Consultant's statement of interest proposal. Failure to submit the CDOT *Affidavit of Small Business Participation* form will result in the Consultant being deemed non-responsive and ineligible for award. The Local Agency will copy the top preferred proposals to CDOT's Civil Rights and Business Resource Center (CRBRC) for approval of CDOT's *Affidavit of Small Business Participation* form. This form includes the commitments to meet the DBE goal.

B. *Contract Utilization Plan (UP)*. Once the contract is awarded and the Local Agency receives a signed contract, the Local Agency will submit the *Local Agency Professional Services B2GNow Contract Information* form for CDOT to set up the contract in the B2GNow system. Once the contract is setup in the system, the Consultant will receive a notice from CDOT within five (5) calendar days of selection, to complete and submit a Utilization Plan via B2GNow. In order to complete the Utilization Plan, the Consultant shall list all DBE, ESB, and nonDBE/ESB Subconsultants and Suppliers/Vendors included as part of its "most qualified" team. The Utilization Plan shall also include all Commitments by percentage.

C. *Consultant Responsibility*. The Consultant is solely responsible for ensuring that the Contract Goal is achieved upon completion of the work, expenditure of funds, and/or expiration of the Contract, whichever occurs first. The Local Agency and CDOT assists in the monitoring as oversight agencies.

D. *Contract Good Faith Effort Requirement*. The UP will not be approved by CDOT until the Consultant documents sufficient Commitments to meet the Contract Goal or demonstrates Good Faith Efforts to meet the Contract Goal even though it did not succeed in obtaining sufficient Commitments to do so.

1. Good Faith Efforts mean that the Consultant:
 - a. Documents it has obtained enough DBE participation to meet the Contract Goal, or
 - b. Documents that it made adequate good faith efforts to meet the Contract Goal, even though it did not succeed in obtaining enough DBE participation to do so
2. If the Consultant has not documented sufficient Commitments to meet the Contract Goal, the Consultant shall provide an explanation of its efforts to obtain Commitments by submitting the CDOT's *Professional Services Good Faith Efforts Report* form and supporting documentation to CRBRC.
 - a. The CRBRC will conduct a review to determine whether the Consultant has demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The CRBRC will approve the Contract Utilization Plan if it determines that the Consultant has made Good Faith Efforts to meet the Contract Goal
3. In conducting Good Faith Effort reviews, the CRBRC will utilize the guidance found in Appendix A to 49 CFR Part 26, where applicable. The CRBRC may also consider, but is not limited to, the following factors in evaluating the Consultant's Good Faith Efforts:
 - a. Performance of other consultants in meeting DBE goals on contracts that have a similar scope of work, contract amount, location, and time frame
 - b. Reason(s) for choosing a nonDBE subconsultant over an interested DBE

- c. Documentation of DBEs solicited by the Consultant and verification from the DBEs that they were actually contacted by the Consultant
- d. Past performance by the Consultant on contracts that have a similar scope of work, contract amount, location and time frame
- e. Any other factors that may be pertinent to the factual circumstances

If the CRBRC determines the Consultant has made Good Faith Efforts to meet the Contract Goal, the Master Contract Utilization Plan will be approved and all documentation of the determination will be uploaded into B2GNow.

E. *Administrative Reconsideration.* If the CRBRC determines that the Consultant did not demonstrate Good Faith Efforts to meet the Contract Goal, the Consultant will be provided a written notice of its determination and an opportunity for administrative reconsideration by the CDOT Chief Engineer or a designee.

1. The Chief Engineer or a designee will conduct administrative reconsideration.
 - a. The Consultant will have five (5) calendar days from the written notice to request administrative reconsideration of an adverse Good Faith Efforts determination
 - b. The request shall include the basis for reconsideration and any supporting documentation that the Consultant would like to be considered as part of the reconsideration
 - c. The reconsideration should also specify whether the Consultant is requesting an informal, in person or telephonic hearing with CDOT to address the issues in the Good Faith Efforts determination
 - d. If a request for an informal hearing is not made, the Consultant will be deemed to have waived this opportunity
2. Upon a hearing request, the Civil Rights and Business Resource Center will establish a date and time for the hearing and send written notice via email to the Consultant, the Local Agency and Civil Rights at least two (2) business days in advance of the hearing.
 - a. If schedules permit, the parties may waive the two (2) business day requirement
 - b. The CDOT Chief Engineer or designee may request additional documentation from the Consultant and/or the Local Agency
 - c. A copy of all requests and responses should be provided to the other party and the other party shall be given an opportunity to respond
3. The CDOT Chief Engineer or a designee shall issue the final determination as to whether the Consultant made Good Faith Efforts to meet the Contract Goal.
 - a. The determination will be in writing and explain the basis for the CDOT Chief Engineer's or designee decision regarding whether or not the Consultant demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The Good Faith Efforts determination of the CDOT Chief Engineer or designee is not appealable

IV. ELIGIBLE DBE PARTICIPATION

In order to count towards the Contract Goal, (1) the work performed by the DBE Consultant, Subconsultant, or Supplier/Vendor must be identified in an approved Commitment, and (2) the Consultant, Subconsultant, or Supplier/Vendor must be DBE certified in the committed work upon submission of the Commitment. The Local Agency will evaluate whether the work it is committed to perform can reasonably be construed to fall within the work areas for which the DBE Consultant, Subconsultant, or Supplier/Vendor is certified. The Local Agency may request assistance from CDOT if needed.

A. If a Consultant, Subconsultant, or Supplier/Vendor is decertified as a DBE following the approval of a Contract, its participation on that Contract may continue to count as DBE participation.

B. DBE participation will be tracked through the B2GNow.

C. Only work actually performed by the DBE will count towards the Contract Goal.

1. The Consultant may count the entire amount of fees or commissions charged by a DBE firm for:

- a. Providing a bona fide service, such as professional, technical, consultant, or managerial services; and/or
- b. Providing assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of work, provided that the fee or commission is determined by the Local Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services

2. When a DBE subcontracts part of the work of its contract to another firm, individual, or entity, the value of the subcontracted work may only be counted if the subcontractor is also a DBE certified firm.

- a. Work that a DBE subcontracts out to a non-certified firm will not count toward the goal
- b. DBE firms may use an employee leasing company for the work
 - i. The participation of the leased employees will count only if the certified DBE firm maintains an employer-employee relationship with the leased employees
 - ii. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the leased employees, as well as ultimate responsibility for wage and tax obligations related to the employees

c. Unless certified in the work to be performed, staffing agencies only count toward the Contract Goal for placement fees and any hourly fee beyond the temporary employee's actual rate of pay

3. When a DBE performs as a participant in a joint venture:

- a. Only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work that the DBE performs with its own forces may count toward the Goal
- b. In order to receive credit, the joint venture agreement must be submitted as an attachment in the utilization plan submitted through B2GNow for review and approval by CDOT

D. A DBE must be performing a Commercially Useful Function, as defined by 49 CFR 26.55(c), in order for its participation to count towards the Contract Goal.

1. To perform a Commercially Useful Function:
 - a. The DBE must be responsible for the execution of the work to be performed and
 - b. Actually performing, managing, and supervising the work
2. In evaluating whether a DBE is performing a Commercially Useful Function, the Local Agency will consider factors, including but not limited to:
 - a. The amount of subcontracted work
 - b. Industry practices, and
 - c. Whether payment to the DBE is commensurate with the work for which the DBE is claiming credit, and any other relevant factors
3. DBE does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation.
4. A DBE is presumed as not performing a Commercially Useful Function:
 - a. When it does not perform or exercise responsibility for at least thirty (30) percent of the total cost of the work it is contracted to perform with its own workforce; or
 - b. When the DBE subcontracts a greater portion of its work than would be expected based on normal industry practice for the type of work involved.
 - c. In these circumstances, the DBE may present evidence to CDOT in order to rebut the presumption.
5. In order to finalize the Contract, the Consultant must have submitted a *Professional Services Commercially Useful Function Questionnaire* form for each DBE firm that performed work or provided supplies toward meeting the contract goal. The DBE, Consultant and Engineer must sign the *Professional Services Commercially Useful Function Questionnaire* form.
6. The Local Agency's determinations regarding Commercially Useful Function matters are not appealable.

V. UTILIZATION PLAN MODIFICATIONS

A. *Reduction, Substitution, Termination.* Reduction, Substitution, or Termination during the life of the Contract shall only be permitted at the discretion of the Local Agency based upon a demonstration of

Good Cause by the Consultant. The Consultant may not Reduce, Substitute, Terminate, or add Commitments without the Local Agency's approval. Consultants may request modification approval to the Local agency. The Local Agency may request for CDOT's assistance and/or use CDOT's *Professional Services DBE Participation Plan Modification Request* form.

1. *Notice to Subconsultant.* Before requesting the Local Agency approval, the Consultant must give the DBE Subconsultant notice in writing of the Consultant's intent to Reduce, Substitute or Terminate the Subconsultant's work. Unless otherwise waived in writing by the DBE, the Consultant must give the DBE five (5) calendar days to respond to the Consultant's notice and advise the Local Agency of objections, if any, that it objects to the proposed Reduction, Termination and/or Substitution and why the Consultant's proposed action should not be approved. If required as a matter of public necessity (e.g., safety), the Local Agency may waive or reduce the period to respond. The DBE firm may also voluntarily waive the response period.

2. *Good Cause Requirement.* A Consultant must demonstrate Good Cause before a request for Reduction, Substitution or Termination can be approved by the Local Agency. Good Cause does not exist if Reduction, Substitution or Termination of a DBE is sought solely so that the Consultant can self perform the work for which the DBE was engaged or so that the Consultant can substitute another firm to perform the work. In evaluating whether Good Cause exists, the Local Agency will consider, but is not limited to, the following factors:

- a. Changes in the scope of work or scheduling that directly impacts the work committed to the DBE
- b. Failure or refusal by the DBE to execute a written contract
- c. Failure or refusal by the DBE to perform the work of its subcontract consistent with normal the industry standards, provided that such failure is not the result of bad faith or discriminatory actions of the Consultant or one of its Subconsultants
- d. The DBE fails to meet reasonable, nondiscriminatory insurance requirement
- e. The DBE becomes bankrupt, insolvent, or exhibits credit unworthiness
- f. The DBE is ineligible to work because of suspension or debarment proceedings or other state law
- g. The DBE is not a responsible Consultant
- h. The listed DBE voluntarily withdraws from the project and provides to the Consultant written notice of its withdrawal
- i. The listed DBE is ineligible to receive credit for its participation
- j. The DBE owner dies or becomes disabled and the firm is unable to complete the work it is committed to perform
- k. The DBE ceases business operations or otherwise dissolves; and/or
- l. Other documented good cause reasons determined by the Local Agency to compel the termination of the DBE Subconsultant

3. *Good Faith Effort Requirement.* When a Commitment is Reduced or Terminated (including when a DBE withdraws), the Consultant shall make Good Faith Efforts to find a Substitution up to the Contract Goal for the DBE whose Commitment has been Terminated or Reduced, Substitutions do not have to be in the same type of work that was Terminated or Reduced.

- a. Prior to making a Substitution, the Consultant must receive the Local Agency's approval for the Substitution.

b. An approval of the modification constitutes a modification of the Utilization Plan through CDOT. Each substitute DBE approved by the Local Agency must have documentation. Documentation similar to a Project Cost Worksheet for Subconsultants or Letter of Intent for a Supplier/Vendor that shows commitments to the firm on the contract are required. Once approved, the Local Agency will work with the CRBRC to modify the UP in B2GNow.

VI. ENFORCEMENT

It is the responsibility of the Local Agency and Consultant to ensure that Commitments are fulfilled or to request Utilization Plan modifications in a timely manner as described in Section VI. Approvals under the Contract are not an explicit or implicit approval by the Local Agency or CDOT of any Commitment Terminations, Reductions, Substitutions, or any other waiver of the Contract Civil Rights requirements.

A. The Local Agency may conduct reviews or investigations of participants as necessary. All participants on the Contract, including, but not limited to, DBE Subconsultants or Suppliers/Vendors are required to cooperate fully and promptly with compliance reviews, certification reviews, investigations, and other requests for information. This also includes applicants for DBE certification, ESB Subconsultants and applicants for ESB certification, complainants, and Consultants using Subconsultants to meet the Contract Goal.

B. If the Local Agency determines that a Consultant, Subconsultant or Supplier/Vendor was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by the Local Agency to be unallowable, or if the Consultant engages in repeated violations, falsification or misrepresentation, the Local Agency may:

1. Refuse to count any fraudulent or misrepresented DBE/ESB participation
2. Withhold progress payments to the Consultant commensurate with the violation
3. Reduce the Consultant's prequalification status
4. Refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
5. Seek any other available contractual remedy

VII. CONTRACT CLOSEOUT

The Local Agency will collect a completed CDOT *Professional Services Closeout Report* form upon completion of the work, expenditure of funds, and/or expiration of the Contract, whichever comes first. This form will report the final actual DBE participation on the Contract and any amounts for which CDOT will be seeking reimbursement due to the Consultant not meeting Commitments. The Local Agency will submit the form to CDOT Civil Rights with submission of the final invoice.

**FEDERAL HIGHWAY ADMINISTRATION (FHWA) CONTRACT CLAUSES FOR CITY OF PUEBLO
(NON CONSTRUCTION)
Updated July 2022**

PART 1. ADDITIONAL FEDERAL REQUIREMENTS (IGA at Exhibit J)

A. Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agency and their contractors or the Local Agency).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agency and the Local Agency when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clear Air Act

Standards, orders, or requirements issued under section 306 of the Clear Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts in excess of \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall

require the federal- aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91- 646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45

C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

B. Nondiscrimination. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the

Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

C. Incorporation of Provisions. The Contractor will include the provisions of the foregoing ADDITIONAL FEDERAL REQUIREMENTS (IGA at Exhibit J) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

PART 2. OMB UNIFORM GUIDANCE FOR FEDERAL PROJECTS (IGA at Exhibit M and related OMB Guidance). During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following:

1. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; 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 the provisions of this nondiscrimination clause.

- (2) 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, color, religion, sex, or national origin.
- (3) 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, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's non-compliance with the nondiscrimination 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 Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal

entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The City must report all suspected or reported violations to the Federal awarding agency.

3. **Rights to Inventions Made Under a Contract or Agreement.** 3 If the Federal Award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). If applicable, Contractor agrees to the following:

Clean Air Act:

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the federal, state, or other grant funding agency and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract meeting or exceeding \$150,000.

Federal Water Pollution Control Act:

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the federal, state, or other grant funding agency and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract meeting or exceeding \$150,000.

5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. If applicable, Contractor shall be bound by it's Bidder's Certification for Debarment, Suspension, Ineligibility and Voluntary Exclusion throughout the period of the Contract.
6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non- Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
7. **Domestic Preference for Procurement (C.F.R. § 200.322).** To the extent consistent with law and in accordance with 2 C.F.R. § 200.322, Contractor and all of its subcontractors will to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement must be included in all contracts and purchase orders that Contractor may enter into.
8. **Procurement of Recovered Material (C.F.R. § 200.323).** In the performance of this contract/agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items in accordance with 40 C.F.R. Part 247, unless the product cannot be acquired:

Competitively within a timeframe providing for compliance with the contract performance

schedule.

Meeting contract performance requirements.

At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

9. Additional Provisions.

Access to Records. The Contractor agrees to provide the federal fund and/or grant provider, the City, the Comptroller General of the United States, and/or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the federal fund and/or grant provider or authorized representatives access to construction or other work sites pertaining to the work being completed under the Project.

In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the federal fund and/or grant provider or the Comptroller General of the United States.

Changes. The cost of changes, modifications, change orders, or constructive changes must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of the project scope.

Changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract as long as the City and Contractor agree to change in writing and change still meets any funding submittal and expiration dates.

No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

Fraud and False or Fraudulent or Related Acts. The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims or Statements) applies to the Contractor's actions pertaining to this contract.

PART 3. CDOT PROFESSIONAL SERVICES CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS (IGA at Exhibit G).

Please refer to CDOT's Local Agency Civil Rights Guidelines for more information:

<https://www.codot.gov/business/civilrights/compliance/prof-services/overview>

Contractor agrees to be bound by and subject to this PART III. CDOT PROFESSIONAL SERVICES CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS.

I. DEFINITIONS

B2GNow. Web based platform utilized by CDOT to track Civil Rights compliance (DBE/ESB participation) and prompt payment requirements on its contracts. The Consultant will use this platform to submit Utilization Plan(s), Subconsultant and Supplier/Vendor information on the Contract.

CDOT Civil Rights. The CDOT Civil Rights office that assist with the contract and prompt payment requirements on contracts. This can be in either the region or headquarters.

Civil Rights and Business Resource Center (CRBRC). CDOT's Civil Rights office at Headquarters.

Commercially Useful Function (CUF). Responsibility for the execution of work by actually performing, managing, and supervising the work, as described in 49 CFR Part 26.

Commitment. A portion of the Contract designated by the Consultant for participation by DBE firms. The DBE firm(s) are included in the proposal team for participation to meet the Contract Goal. Commitments must identify the work to be performed by the DBE and include the percentage of the contract committed to each DBE firm. Commitments are measured at the end of the contract and are calculated by the actual payments to a DBE firm divided by the total payments made under the Contract.

Contract. Agreement between the Local Agency and the Consultant, whereby the Consultant will be compensated in exchange for providing Professional Services and ancillary services. For purposes of this document, the term "Contract" refers to an individual, executed Task Order for an On-Call Agreement or a Master Contract (overarching agreement) for Project-Specific and Program-Specific Agreements.

Contract Goal Percentage. The percentage of the Contract established by CDOT for reasonable participation by DBEs and stated in the invitation for consultant services.

Consultant. Contractor whether designated as engineer, consultant or otherwise who has entered an agreement with Local Agency pursuant to which mandatory federal and state contract provisions have become applicable including the requirements of this Part III.

Disadvantaged Business Enterprise (DBE). A Colorado certified Disadvantaged Business Enterprise listed on the Colorado Unified Certification Program (UCP) DBE Directory at www.coloradodbe.org.

Emerging Small Business (ESB). A CDOT certified Emerging Small Business firm listed on the ESB Directory at www.coloradoesb.org.

Good Faith Efforts (GFE). All necessary and reasonable steps to secure the necessary Commitments to meet the Contract Goal or other requirements of this contract, which by their scope, intensity, and appropriateness to the objective could reasonably be expected to fulfill the contract requirement. Guidance on Good Faith Efforts to meet the Contract Goal is provided in 49 CFR Part 26, Appendix A.

Local Agency. Pueblo, a municipal corporation.

Professional Services. The practice of architecture, engineering, professional land surveying, landscape architecture, and industrial hygiene as defined in Colorado Revised Statutes (CRS) 24-30-1402 and 48CFR Part 2.

Reduction. Reduction occurs when the Consultant reduces a Commitment to a DBE. A Reduction is a partial Termination.

Subconsultant. An individual, firm, corporation or other legal entity to whom the Consultant sublets part of the contract. For purposes of these requirements, the term Subconsultant includes Suppliers/Vendors.

Substitution. Substitution occurs when a Consultant seeks to find another certified DBE firm to perform work on the contract as a result of a Reduction or Termination.

Termination. Termination occurs when a Consultant no longer intends to use a DBE firm for fulfillment of a Commitment. This includes, but is not limited to, instances in which a Consultant seeks to perform work originally designated for a DBE Subconsultant with its own forces or those of an affiliate, a nonDBE firm, or with another DBE firm.

Utilization Plan (UP). The documentation of Subconsultant and Supplier/Vendor participation on the awarded Contract. The Utilization Plan details all Subconsultants and Suppliers/Vendors included as part of the proposal team and Commitments by percentage made by the Consultant. The Consultant must submit the Utilization Plan within five (5) calendar days of receiving notice from CDOT's B2GNow system.

Vendor. Participant on a CDOT contract that is providing services not considered to be a Professional Services as defined in Colorado Revised Statute 24-30-1402 and 48 CFR Part 2. A vendor would provide Non- Engineering Services (i.e. Geotechnical drilling, Public Information/Relations, traffic control, etc.) and would not be overseen by a licensed engineer.

Work Code. A code to identify the work that a DBE is certified to perform. A work code includes a six (6) digit North American Industry Classifications System (NAICS) code plus a descriptor. Work codes are listed on a firm's profile on the Colorado UCP DBE Directory at <https://coucp.dbesystem.com/>. The Local Agency may include CDOT in discussions for clarification. The consultant may contact the Civil Rights and Business Resource Center to receive guidance on whether a work code covers the work to be performed.

II. NONDISCRIMINATION AND SUBCONTRACTING REQUIREMENTS

The following requirements apply to all contracts and subcontracts on FHWA federally-assisted contracts.

- A. *Non-discrimination.* The Consultant, with regard to the work performed by it during the contract term, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant will not

participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

- B. *Civil Rights Act of 1964 Title VI*. CDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- C. *Consultant Assurance*. By submitting a proposal for this contract, the Consultant agrees to the following assurance: The consultant, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract. Such other remedy as deems appropriate, which may include, but is not limited to:
- Withholding monthly progress payments
 - Assessing sanctions
 - Liquidated damages
 - Disqualifying the consultant from future bidding as non responsible
- D. *Prompt Payment*. Payments to all Subconsultants shall be made within seven (7) calendar days of receipt of payment from the Local Agency, or no later than ninety (90) calendar days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. The Local Agency will assist in enforcing the Civil Rights Requirements outlined above as well as prompt payment as outlined in 49 CFR, Part 26. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify the Subconsultant no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include failure to timely submit an invoice or to deposit payments made. The Consultant shall electronically submit prompt payment audit reports in B2GNow by the fifteenth (15th) of each month through the B2GNow software. If no payment has been made, the Consultant shall document this in the prompt payment audit reporting.
- E. *Subcontract Terms*. Parts A-D of this section shall be included in all subcontracts or other agreements for the performance of work on the contract.

III. CONTRACT COMMITMENT

At the time of initial proposal, the Consultant must make a contractually binding guarantee to meet the Contract Goal in accordance with 49 CFR 26.53.

- A. *Affidavit of Small Business Participation*. The Affidavit of Small Business Participation is the Consultant's contractually binding guarantee to meet the Contract Goal or make Good Faith Efforts to do so. CDOT's *Affidavit of Small Business Participation* form must be submitted with the Consultant's statement of

interest proposal. Failure to submit the CDOT *Affidavit of Small Business Participation* form will result in the Consultant being deemed non responsive and ineligible for award. The Local Agency will copy the top preferred proposals to CDOT's Civil Rights and Business Resource Center (CRBRC) for approval of CDOT's *Affidavit of Small Business Participation* form. This form includes the commitments to meet the DBE goal.

- B. *Contract Utilization Plan (UP)*. Once the contract is awarded and the Local Agency receives a signed contract, the Local Agency will submit the *Local Agency Professional Services B2GNow Contract Information* form for CDOT to set up the contract in the B2GNow system. Once the contract is setup in the system, the Consultant will receive a notice from CDOT within five (5) calendar days of selection, to complete and submit a Utilization Plan via B2GNow. In order to complete the Utilization Plan, the Consultant shall list all DBE, ESB, and nonDBE/ESB Subconsultants and Suppliers/Vendors included as part of its "most qualified" team. The Utilization Plan shall also include all Commitments by percentage.
- C. *Consultant Responsibility*. The Consultant is solely responsible for ensuring that the Contract Goal is achieved upon completion of the work, expenditure of funds, and/or expiration of the Contract, whichever occurs first. The Local Agency and CDOT assists in the monitoring as oversight agencies.
- D. *Contract Good Faith Effort Requirement*. The UP will not be approved by CDOT until the Consultant documents sufficient Commitments to meet the Contract Goal or demonstrates Good Faith Efforts to meet the Contract Goal even though it did not succeed in obtaining sufficient Commitments to do so.
 - 1. Good Faith Efforts mean that the Consultant:
 - a. Documents it has obtained enough DBE participation to meet the Contract Goal, or
 - b. Documents that it made adequate good faith efforts to meet the Contract Goal, even though it did not succeed in obtaining enough DBE participation to do so
 - 2. If the Consultant has not documented sufficient Commitments to meet the Contract Goal, the Consultant shall provide an explanation of its efforts to obtain Commitments by submitting the CDOT's *Professional Services Good Faith Efforts Report* form and supporting documentation to CRBRC.
 - a. The CRBRC will conduct a review to determine whether the Consultant has demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The CRBRC will approve the Contract Utilization Plan if it determines that the Consultant has made Good Faith Efforts to meet the Contract Goal
 - 3. In conducting Good Faith Effort reviews, the CRBRC will utilize the guidance found in Appendix A to 49 CFR Part 26, where applicable. The CRBRC may also consider, but is not limited to, the following factors in evaluating the Consultant's Good Faith Efforts:
 - a. Performance of other consultants in meeting DBE goals on contracts that have a similar scope of work, contract amount, location, and time frame
 - b. Reason(s) for choosing a nonDBE subconsultant over an interested DBE
 - c. Documentation of DBEs solicited by the Consultant and verification from the DBEs that they were actually contacted by the Consultant
 - d. Past performance by the Consultant on contracts that have a similar scope of work,

- contract amount, location and time frame
- e. Any other factors that may be pertinent to the factual circumstances

If the CRBRC determines the Consultant has made Good Faith Efforts to meet the Contract Goal, the Master Contract Utilization Plan will be approved and all documentation of the determination will be uploaded into B2GNow.

E. *Administrative Reconsideration.* If the CRBRC determines that the Consultant did not demonstrate Good Faith Efforts to meet the Contract Goal, the Consultant will be provided a written notice of its determination and an opportunity for administrative reconsideration by the CDOT Chief Engineer or a designee.

1. The Chief Engineer or a designee will conduct administrative reconsideration.
 - a. The Consultant will have five (5) calendar days from the written notice to request administrative reconsideration of an adverse Good Faith Efforts determination
 - b. The request shall include the basis for reconsideration and any supporting documentation that the Consultant would like to be considered as part of the reconsideration
 - c. The reconsideration should also specify whether the Consultant is requesting an informal, in person or telephonic hearing with CDOT to address the issues in the Good Faith Efforts determination
 - d. If a request for an informal hearing is not made, the Consultant will be deemed to have waived this opportunity
2. Upon a hearing request, the Civil Rights and Business Resource Center will establish a date and time for the hearing and send written notice via email to the Consultant, the Local Agency and Civil Rights at least two (2) business days in advance of the hearing.
 - a. If schedules permit, the parties may waive the two (2) business day requirement
 - b. The CDOT Chief Engineer or designee may request additional documentation from the Consultant and/or the Local Agency
 - c. A copy of all requests and responses should be provided to the other party and the other party shall be given an opportunity to respond
3. The CDOT Chief Engineer or a designee shall issue the final determination as to whether the Consultant made Good Faith Efforts to meet the Contract Goal.
 - a. The determination will be in writing and explain the basis for the CDOT Chief Engineer's or designee decision regarding whether or not the Consultant demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The Good Faith Efforts determination of the CDOT Chief Engineer or designee is not appealable

IV. ELIGIBLE DBE PARTICIPATION

In order to count towards the Contract Goal, (1) the work performed by the DBE Consultant, Subconsultant, or Supplier/Vendor must be identified in an approved Commitment, and (2) the Consultant, Subconsultant, or Supplier/Vendor must be DBE certified in the committed work upon submission of the Commitment. The Local Agency will evaluate whether the work it is committed to perform can reasonably be construed to fall within the work areas for which the DBE Consultant, Subconsultant, or Supplier/Vendor is certified. The Local Agency may request assistance from CDOT if needed.

- A. If a Consultant, Subconsultant, or Supplier/Vendor is decertified as a DBE following the approval of a Contract, its participation on that Contract may continue to count as DBE participation.
- B. DBE participation will be tracked through the B2GNow.
- C. Only work actually performed by the DBE will count towards the Contract Goal.
 - 1. The Consultant may count the entire amount of fees or commissions charged by a DBE firm for:
 - a. Providing a bona fide service, such as professional, technical, consultant, or managerial services; and/or
 - b. Providing assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of work, provided that the fee or commission is determined by the Local Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services
 - 2. When a DBE subcontracts part of the work of its contract to another firm, individual, or entity, the value of the subcontracted work may only be counted if the subcontractor is also a DBE certified firm.
 - a. Work that a DBE subcontracts out to a non-certified firm will not count toward the goal
 - b. DBE firms may use an employee leasing company for the work
 - i. The participation of the leased employees will count only if the certified DBE firm maintains an employer-employee relationship with the leased employees
 - ii. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the leased employees, as well as ultimate responsibility for wage and tax obligations related to the employees
 - c. Unless certified in the work to be performed, staffing agencies only count toward the Contract Goal for placement fees and any hourly fee beyond the temporary employee's actual rate of pay
 - 3. When a DBE performs as a participant in a joint venture:
 - a. Only the portion of the total dollar value of the contract equal to the distinct, clearly

defined portion of the work that the DBE performs with its own forces may count toward the Goal

- b. In order to receive credit, the joint venture agreement must be submitted as an attachment in the utilization plan submitted through B2GNow for review and approval by CDOT

C. A DBE must be performing a Commercially Useful Function, as defined by 49 CFR 26.55(c), in order for its participation to count towards the Contract Goal.

1. To perform a Commercially Useful Function:
 - a. The DBE must be responsible for the execution of the work to be performed and
 - b. Actually performing, managing, and supervising the work
2. In evaluating whether a DBE is performing a Commercially Useful Function, the Local Agency will consider factors, including but not limited to:
 - a. The amount of subcontracted work
 - b. Industry practices, and
 - c. Whether payment to the DBE is commensurate with the work for which the DBE is claiming credit, and any other relevant factors
3. DBE does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation.
4. A DBE is presumed as not performing a Commercially Useful Function:
 - a. When it does not perform or exercise responsibility for at least thirty (30) percent of the total cost of the work it is contracted to perform with its own workforce; or
 - b. When the DBE subcontracts a greater portion of its work than would be expected based on normal industry practice for the type of work involved.
 - c. In these circumstances, the DBE may present evidence to CDOT in order to rebut the presumption.
5. In order to finalize the Contract, the Consultant must have submitted a *Professional Services Commercially Useful Function Questionnaire* form for each DBE firm that performed work or provided supplies toward meeting the contract goal. The DBE, Consultant and Engineer must sign the *Professional Services Commercially Useful Function Questionnaire* form.
6. The Local Agency's determinations regarding Commercially Useful Function matters are not appealable.

V. UTILIZATION PLAN MODIFICATIONS

- A. *Reduction, Substitution, Termination.* Reduction, Substitution, or Termination during the life of the Contract shall only be permitted at the discretion of the Local Agency based upon a demonstration of

Good Cause by the Consultant. The Consultant may not Reduce, Substitute, Terminate, or add Commitments without the Local Agency's approval. Consultants may request modification approval to the Local agency. The Local Agency may request for CDOT's assistance and/or use CDOT's Professional Services DBE Participation Plan Modification Request form.

1. *Notice to Subconsultant.* Before requesting the Local Agency approval, the Consultant must give the DBE Subconsultant notice in writing of the Consultant's intent to Reduce, Substitute or Terminate the Subconsultant's work. Unless otherwise waived in writing by the DBE, the Consultant must give the DBE five (5) calendar days to respond to the Consultant's notice and advise the Local Agency of objections, if any, that it objects to the proposed Reduction, Termination and/or Substitution and why the Consultant's proposed action should not be approved. If required as a matter of public necessity (e.g., safety), the Local Agency may waive or reduce the period to respond. The DBE firm may also voluntarily waive the response period.
2. *Good Cause Requirement.* A Consultant must demonstrate Good Cause before a request for Reduction, Substitution or Termination can be approved by the Local Agency. Good Cause does not exist if Reduction, Substitution or Termination of a DBE is sought solely so that the Consultant can self perform the work for which the DBE was engaged or so that the Consultant can substitute another firm to perform the work. In evaluating whether Good Cause exists, the Local Agency will consider, but is not limited to, the following factors:
 - a. Changes in the scope of work or scheduling that directly impacts the work committed to the DBE
 - b. Failure or refusal by the DBE to execute a written contract
 - c. Failure or refusal by the DBE to perform the work of its subcontract consistent with normal the industry standards, provided that such failure is not the result of bad faith or discriminatory actions of the Consultant or one of its Subconsultants
 - d. The DBE fails to meet reasonable, nondiscriminatory insurance requirement
 - e. The DBE becomes bankrupt, insolvent, or exhibits credit unworthiness
 - f. The DBE is ineligible to work because of suspension or debarment proceedings or other state law
 - g. The DBE is not a responsible Consultant
 - h. The listed DBE voluntarily withdraws from the project and provides to the Consultant written notice of its withdrawal
 - i. The listed DBE is ineligible to receive credit for its participation
 - j. The DBE owner dies or becomes disabled and the firm is unable to complete the work it is committed to perform
 - k. The DBE ceases business operations or otherwise dissolves; and/or
 - l. Other documented good cause reasons determined by the Local Agency to compel the termination of the DBE Subconsultant
3. *Good Faith Effort Requirement.* When a Commitment is Reduced or Terminated (including when a DBE withdraws), the Consultant shall make Good Faith Efforts to find a Substitution up to the Contract Goal for the DBE whose Commitment has been Terminated or Reduced, Substitutions do not have to be in the same type of work that was Terminated or Reduced.

- a. Prior to making a Substitution, the Consultant must receive the Local Agency's approval for the Substitution.
- b. An approval of the modification constitutes a modification of the Utilization Plan through CDOT. Each substitute DBE approved by the Local Agency must have documentation. Documentation similar to a Project Cost Worksheet for Subconsultants or Letter of Intent for a Supplier/Vendor that shows commitments to the firm on the contract are required. Once approved, the Local Agency will work with the CRBRC to modify the UP in B2GNow.

VI. ENFORCEMENT

It is the responsibility of the Local Agency and Consultant to ensure that Commitments are fulfilled or to request Utilization Plan modifications in a timely manner as described in Section VI. Approvals under the Contract are not an explicit or implicit approval by the Local Agency or CDOT of any Commitment Terminations, Reductions, Substitutions, or any other waiver of the Contract Civil Rights requirements.

- A. The Local Agency may conduct reviews or investigations of participants as necessary. All participants on the Contract, including, but not limited to, DBE Subconsultants or Suppliers/Vendors are required to cooperate fully and promptly with compliance reviews, certification reviews, investigations, and other requests for information. This also includes applicants for DBE certification, ESB Subconsultants and applicants for ESB certification, complainants, and Consultants using Subconsultants to meet the Contract Goal.
- B. If the Local Agency determines that a Consultant, Subconsultant or Supplier/Vendor was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by the Local Agency to be unallowable, or if the Consultant engages in repeated violations, falsification or misrepresentation, the Local Agency may:
 - 1. Refuse to count any fraudulent or misrepresented DBE/ESB participation
 - 2. Withhold progress payments to the Consultant commensurate with the violation
 - 3. Reduce the Consultant's prequalification status
 - 4. Refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
 - 5. Seek any other available contractual remedy

VI. CONTRACT CLOSEOUT

The Local Agency will collect a completed CDOT *Professional Services Closeout Report* form upon completion of the work, expenditure of funds, and/or expiration of the Contract, whichever comes first. This form will report the final actual DBE participation on the Contract and any amounts for which CDOT will be seeking reimbursement due to the Consultant not meeting Commitments. The Local Agency will submit the form to CDOT Civil Rights with submission of the final invoice.



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SHORT-ELLIOTT-HENDRICKSON, INC., IN THE AMOUNT OF \$63,841.35 FOR 20-024, NORTHERN AVENUE TRAIL PHASE III, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution approves Amendment No. 3 to the Professional Engineering Services Agreement awarded to Short-Elliott-Hendrickson, Inc. (SEH), in the amount of \$63,841.35 for Project No. 20-024 (PL2003), TAP M086-082 (22971), Northern Avenue Streetscape Trail Phase III.

PREVIOUS COUNCIL ACTION:

Ordinance 9600 dated November 25, 2019, transferred funds in the amount of \$125,000 from the 2019 Highway User Tax Fund ("HUTF") balance to Project HU1601 and budgeted and appropriated \$125,000 for the Traffic Signal Northern and Prairie Project.

Ordinance 9666 dated February 24, 2020, established project PL2003, which approved an IGA between the City of Pueblo and CDOT, transferred \$125,000 from project HU1601 to project PL2003, and budgeted and appropriated funds in the amount of \$625,000 for the Northern Avenue Streetscape/Trail Phase III Project.

Resolution 14465 dated August 24, 2020, approved an agreement for Professional Engineering Services between the City of Pueblo and Short Elliott Hendrickson, Inc., in the amount of \$63,037.19, related to the Northern Avenue Streetscape/Trail Phase III Project.

Ordinance 9977 dated August 9, 2021, approved an amendment to the Intergovernmental Agreement (“IGA”), TAP M086-082 between Pueblo, a Colorado Municipal Corporation (“City”) and the State of Colorado, Colorado Department of Transportation (“CDOT”) relating to the Northern Avenue Streetscape/Trail Phase III Project.

Resolution 14654 dated July 12, 2021, approved an amendment to a Professional Engineering Services Agreement between the City of Pueblo and Short Elliott Hendrickson, Inc., in the amount of \$25,006.70, related to the Northern Avenue Streetscape/Trail Phase III Project.

Ordinance 10121 dated February 28, 2022, approved Amendment #2 to the IGA between the City of Pueblo and CDOT to allocate \$34,000 for right-of-way acquisition.

Ordinance 10308 dated October 24, 2022, approved Amendment #3 to the IGA between the City of Pueblo and CDOT to add additional funding, in the amount of \$693,494 to the project.

BACKGROUND:

The Northern Avenue Streetscape/Trail, Phase III Project will continue the trail/shared use path along the north side of Northern Avenue between Cambridge Avenue and Prairie Avenue and upgrade the signal at Northern Avenue and Prairie Avenue. Over the last eight years, the City of Pueblo has redeveloped the trail system and constructed the landscaped center medians along Northern Avenue between Pueblo Boulevard (State Highway 45) East to Cambridge Avenue.

The purpose of Amendment No. 3 to the Agreement for Professional Engineering Services is to increase the scope of work and payment to Short-Elliott-Hendrickson (SEH). The City of Pueblo was awarded additional funding in the amount of \$693,494 from a CDOT Multimodal Options Fund grant. This grant increased the scope of work for the project to include improvements along Prairie Avenue from Mesa Avenue to the Colorado State Fair entrance on Prairie Avenue. The amendment to the agreement with SEH is necessary to increase the scope and fee for the additional work that SEH will perform to design the additional improvements.

FINANCIAL IMPLICATIONS:

Funding for the original Agreement (\$63,037.19), Amendment #1 (\$25,006.70) and Amendment #3 (\$63,841.35) will be paid from account PL2003, Northern Avenue Streetscape Trail Project III.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the design of the additional improvements awarded; therefore, putting the City of Pueblo in default of the approved IGA amendment #3 approved on October 24, 2022.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. SEH Amendment 3 for Scope of Work

RESOLUTION NO. 15070

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SHORT-ELLIOTT-HENDRICKSON, INC., IN THE AMOUNT OF \$63,841.35 FOR 20-024, NORTHERN AVENUE TRAIL PHASE III, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, Project No. 20-024 (PL2003), TAP M086-082 (22971) Northern Avenue Streetscape Trail Phase 3 Project was awarded to Short-Elliott-Hendrickson, Inc., on August 25, 2020; and.

WHEREAS, Amendment No. 3 to a Professional Engineering Services Agreement to Short-Elliott-Hendrickson, Inc., was approved on July 13, 2021; and,

WHEREAS, additional design and engineering work contemplated by Amendment No. 3 is needed; and

WHEREAS, it is in the best interest of the City to proceed with and complete such design in the manner herein provided; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Amendment No. 3, by and between the City of Pueblo, a Municipal Corporation, and Short-Elliott-Hendrickson, Inc., a Colorado Corporation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by Amendment No. 3 to be performed in the amount of \$63,841.35.

SECTION 2.

Funds in the amount of \$63,841.35 will be paid from Project 2003, Northern Avenue Streetscape Trail Project.

SECTION 3.

The Purchasing Agent is hereby authorized to execute Amendment No. 3 on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

The officers of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

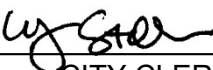
SECTION 5.

This Resolution shall become effective immediately upon final approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

AMENDMENT NO. 3 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BY AND BETWEEN CITY OF PUEBLO AND SHORT- ELLIOTT-HENDRICKSON, INC.

This Amendment No. 3 to the Agreement for Professional Engineering Services ("Amendment") is executed to be effective as of the ____ day of _____, 2022 by and between the City of Pueblo, Colorado, a Colorado Municipal Corporation ("Owner") and Short-Elliott-Hendrickson, Inc., a registered Minnesota Corporation authorized to do business in the State of Colorado ("Engineer"). Owner and Engineer are sometimes referred to herein as a "Party" and collectively, as the "Parties." WITNESSETH THAT:

WHEREAS, Owner and Engineer entered into that certain Agreement for Professional Engineering Services dated the 25th day of August, 2020 (the "Agreement") for Bid 20-024 (PL2003), TAP M086-082 (22971), Northern Avenue Trail Phase 3; and

WHEREAS, Owner and Engineer desire to modify the Agreement pursuant to the provisions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Owner and Engineer hereby agree to the following:

AGREEMENT

1. The Agreement is amended by expanding the scope of work to include the following additional services: Engineer shall provide to the Owner additional work for the project including Project Management, Preliminary Design (FIR), Final Design (FOR), Final PS&E Submittal, and Bidding and Negotiation as outlined in Attachment A. The services shall provide the services specifically for the following areas: Mesa Avenue and Prairie Avenue ADA ramps and pedestrian signal improvements; Amherst Avenue intersection ADA and pedestrian signal improvements; and sidewalk along the west side of Prairie Avenue from Amherst Avenue to mid-block crossing north of Purdue Street.
2. Attachment A to this Amendment No. 3 shall be additional work as agreed upon by Engineer and Owner, and Engineer shall complete the work items as generally described in said Attachment A in accordance with the terms of the Agreement and any and all prior amendments thereto.
3. With respect to services provided under the Amendment No. 3, the fee schedule attached as Attachment B to this Amendment No. 3 shall apply to compensation payable to Engineer. The aggregate compensation payable to the Engineer for performance of the additional services authorized by this Amendment No. 3 shall not exceed the maximum amount of \$63,841.35 as set forth in the Attachment B and notwithstanding whether the service is billed as Time and Material.
4. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
5. Except as expressly modified by this Amendment No. 3, the Agreement and any and all prior amendments thereto shall remain in full force and effect. Except as modified by this Amendment No. 3, any obligations to be performed under the Agreement and any and all prior amendments thereto by either party are not

waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 3.

6. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document with the same effect as if all Parties had signed the same original. The Parties further agree that transmission of this Amendment by any electronic format, telecopy or via email in a PDF format, shall be deemed transmission of the original Amendment for all purposes. Electronic signatures shall be deemed valid and binding to the same extent as the original

IN WITNESS WHEREOF, the Parties to this Amendment No. 3 have set forth their hand, to be effective as of the effective date.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

SHORT-ELLIOTT-HENDRICKSON, INC.

By _____
Naomi C. Hedden, Director of Purchasing

By _____
James Hayson, Principal-In-Charge

Attest _____
Marisa Stoller, City Clerk

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Alexandria Romero, Finance Director

APPROVED AS TO FORM

Dan Kogovsek, City Attorney

Attachments: Attachment A Scope of Services for Additional Work
Attachment B Fee Schedule for Additional Work

Attachment A

Additional Scope of Service

Excerpt from proposal dated August 19, 2022 from Engineer

Northern Avenue Trail Phase III – Additional Services (2)

Project Understanding and Limits: The Northern Avenue Trail – Phase III overall alignment and associated improvements will be located in the City of Pueblo Right-of-Way along the north side of Northern Avenue from Cambridge Avenue to Prairie Avenue; along the west side of Prairie Avenue from Northern Avenue to approximately Mesa Avenue; including the northern median reconstruction at Mesa Avenue and Prairie Avenue and ADA ramps and pedestrian signal improvements; Amherst Avenue intersection ADA and pedestrian signal improvements; along the west side of Prairie Avenue from Amherst Avenue to mid-block crossing north of Purdue Street; and signal improvements for northwest and southwest corners of intersection of Prairie Avenue and Northern Avenue. The trail will consist of a 10' concrete trail with associated landscape and streetscape improvements along Northern Avenue and varying width of not less than 6 feet for the remainder of the alignment in accordance with grant submitted to Colorado Department of Transportation.

Scope: The Basic Services provided by SEH as set forth herein and for that portion of the project including Mesa Avenue and Prairie Avenue ADA ramps and pedestrian signal improvements; Amherst Avenue intersection ADA and pedestrian signal improvements; sidewalk along the west side of Prairie Avenue from Amherst Avenue to mid-block crossing north of Purdue Street is provided subject to the attached Agreement for Professional Services.

Unless task is explicitly included in scope of work, task is explicitly excluded.

Our services will consist of:

Project Management

1. Attend project kick-off meeting with key City of Pueblo and SEH team members for the purpose of discussing the project scope, schedule, issues and opportunities, and critical success factors.
2. Attend two (2) project coordination and review meetings with City of Pueblo and CDOT staff at key milestones of design phase to ensure regulatory compliance and resolve review issues.
3. Project management to include records management, archiving and communications.
4. Monthly invoicing and status reporting throughout course of project.
5. Maintaining project budget and schedule.

Deliverables: *Approved schedule, updates to schedule as necessary, monthly invoices with progress reports, monthly budget reports, monthly communication summaries, meeting minutes.*

Preliminary Design (FIR – Field Inspection Review)

1. Design Survey
 - a. SEH will establish horizontal and vertical control based on NGS monuments located in the field. Once control is established, three monuments will be positioned outside the project limits and coordinates and elevations will be associated with each monument. These site monuments will be used for the design and determination of right-of-way.
 - b. A topographic survey will be performed using a Trimble S6 total station and Trimble GPS receivers in RTK mode. The survey will cover the proposed project limits as described in project understanding above being within property owned or controlled by City of Pueblo, and those portions of privately owned property necessary for design, but not greater than 25' within. The survey will include all roadway features, drainage features, and large trees, toe of slopes, tops of cuts, signage, surface utility features, fences, and structures. Once utility locates have been marked in the field, the utility markings will be

- located in the field by SEH surveyor. A final topographic map will be provided showing all the above-mentioned features along with one foot contours.
- c. SEH will provide utility locates of project area as defined from best available information provided by utility providers or otherwise determined.
- d. SEH will provide the research needed to determine the right-of-way. This research will then be used to search for monuments in the field. Any found monuments will then be analyzed and compared to the record data to determine the site corridor.
- 2. A preliminary design package will be developed to the 30% Design Level for City of Pueblo and CDOT review. This package will contain proposed design of improvements in plan and profile views depicting existing and proposed grades, typical sections of trail, general landscape and streetscape features, preliminary signal layout, and general notation.
- 3. An Engineer's opinion of probable cost will be completed and discussed with City of Pueblo.
- 4. SEH will coordinate and facilitate the FIR Meeting with City of Pueblo and CDOT staff.
 - a. FIR meeting minutes will be completed within 3 days after the meeting. The minutes will be distributed to attendees and stakeholders for review, comment, and clarification.
 - b. SEH will revise plans and address comments per City of Pueblo and CDOT review comments.
- 5. Assist City of Pueblo in initiation of necessary coordination and clearance requirements from CDOT Specialty Units.

Deliverables – Topographic map in State Plane Coordinates depicting ground features, contours at 1-foot intervals, and boundary in PDF and DWG formats; TIN of existing and proposed ground surfaces; survey field notes and coordinate information for control; SUE Investigation – Level B; FIR plan set (Cover Sheet with vicinity and location map, plan and profile sheets, typical sections, signal layout sheet, standard plan list, summary of quantities, and details); preliminary engineer's estimate.

Final Design (FOR – Final Office Review)

- 1. A complete set of construction documents required for a final design, FOR level submittal will be developed in CDOT format, including cover sheet, standard plan list, general notes, summary of approximate quantities, survey control diagram, survey tabulation, trail plan and profile sheets, limited grading plan, pedestrian signal plans, details, general project notes, and Storm Water Management plan.
- 2. An Engineer's opinion of probable construction cost will be completed and discussed with City of Pueblo.
- 3. Preparation of contract documents to include Project Special Provisions, CDOT Standard Project Provisions, City of Pueblo Technical Specifications and City of Pueblo front end documents.
- 4. The final design will be discussed with City of Pueblo staff. SEH will revise plans per City of Pueblo review comments.
- 5. SEH will coordinate and administer the FOR meeting with City of Pueblo and CDOT staff.
 - a. FOR meeting minutes will be completed within 3 days after the meeting. The minutes will be distributed to attendees and stakeholders for review, comment, and clarification.
- 6. Prepare CDOT Format Right-of-Way Plans
 - a. Perform field work to identify required control for development of right-of-way plans.
 - b. Prepare right-of-way plans for the purpose of property/easement acquisition, assumed to be (3) permanent easements, in CDOT approved format to include:
 - Title Sheet
 - Ownership Tabulation Sheets
 - Project Control Diagram
 - Land Survey Control Diagram
 - Monumentation Sheets
 - Plan Sheets
 - Ownership Map

- c. Attend one (1) Right-of-Way Plan Review Meeting with CDOT and City's property acquisition staff.
 - Revise and submit final ROW plans for approval by CDOT.

Deliverables – Cover sheet with Vicinity Map and Project Map, CDOT Standard Plan List, as applicable, general notes, survey control diagram, survey tabulation sheet, plan and profiles, grading plan, SWMP, details, signing and striping plan, project construction contract documents, and engineer's estimate, ROW Plans and legal descriptions.

Final PS&E Submittal

1. A complete set of construction documents required for a CDOT PS&E (Plans, Specifications and Estimate) will be prepared for submittal.
2. Assist City of Pueblo in preparation of Utility, Right-of-Way, and Environmental Clearance Letters.
 - a. Provide documentation to CDOT of utility clearance from all known utility companies.
 - b. Provide documentation to CDOT of no existing right-of-way impacts. It is assumed that no right-of-way impacts exist based on conceptual level research. If it is determined that right-of-way or easements must be acquired, SEH will assist City of Pueblo in acquisition with preparation of ROW plans as an additional service.
 - c. It is assumed that CDOT will complete environmental clearances.

Deliverables – PDF files of PS&E package, DWG files of plans, Word Documents of contract documents and specifications, engineer's estimate, meeting agenda and minutes.

Bidding and Negotiation

1. SEH will attend Pre-bid Meeting.
2. Clarify and respond to bidder's questions, as appropriate, during the solicitation process.
3. Assist City in evaluation of bid results and request for concurrence to award from CDOT.

Specific Exclusions/Assumptions

- Right of Entry onto private property will be provided by City of Pueblo.
- Right-of-way plans for property acquisition are anticipated and assumed to require up to three (3) permanent easements.
- Legal descriptions for right-of-way acquisition/easements.
- Potholing of utilities is not included.
- Site lighting design is not included.
- City of Pueblo will provide, or give access to, SEH all previously approved agreements between City of Pueblo and CDOT.
- City of Pueblo will provide, or give access to, SEH other engineering design and reports, not listed above.
- City of Pueblo will provide, or give access to, SEH all plats, deeds, or legal descriptions of properties adjacent or included within project limits.
- Additional meetings, as requested by City of Pueblo, or required by CDOT, shall be conducted on a time and materials basis, based on the Rate Schedule Method.
- This fee proposal assumes that there will be no more than one (1) review/response cycle, per phase, with City of Pueblo or CDOT on the information provided.
- The fee assumes that the study area and scope of work provided by SEH at the time of the

proposal will not change. Any modifications to the scope that affect the study area, project limits or scope shall be considered additional services and negotiated by City of Pueblo and SEH prior to any additional work commencing.

- Construction Administration services from date of concurrence to award are not included.

Attachment B

Fee Schedule for Additional Scope of Service

Excerpt from proposal dated August 19, 2022 from Engineer

Additional Services (2) - Fee Schedule 20-024 - Civil Engineering and Design of Northern Avenue Trail, Phase 3		Project Management		Preliminary Design					Final Design Phase				Preparation of Contract Documents and Bidding Phase			
 Building a Better World for All of Us® Engineers Architects Planners Scientists		Labor Rate	Project Concept Meetings for Alternate Designs of Cambridge/Northern and Prairie/ Northern Intersections	Task Order Oversight, Reporting, Project Management, Client Communication, Scheduling, Internal Team Management, Coordination, Team Meetings, Subconsultant Subcontracting and Monitoring.	Uniformed Services for Veterans Affairs (USVA) for additional design between Mesa Avenue and Purdue Avenue near crossing to State Fairgrounds and for ROW supplemental information. Includes Subsurface Utility Engineering Investigations.	Prepare schematic design plans (considered as 30% complete relative to final design) that adequately represent the design intent provided by the City in the preliminary design from the CDOT grant for owner's review and comment.	Provide full coordination necessary with all applicable agencies as required such as appropriate City Departments, adjacent property owners, utility companies, CDOT, etc.	Provide a detailed identification of easement acquisitions (if needed).	Prepare a detailed project cost estimate.	Perform final engineering and site design for presentation including plan and profile, sections, storm water plans, and related work including all incidentals relative to additional design between Mesa Avenue and Purdue Avenue near crossing to State Fairgrounds.	Coordinate with CDOT for review of the documents and all necessary clearances required by CDOT. Incorporate review comments and revisions from CDOT into all documents.	Prepare Right-of-Way Plans (ROWP) - Full plan set with Title Sheet, Property Tabulation, Project Control Diagram, Land Survey Control Diagram, Plan Sheets, Ownership Sheet, Right-of-Way Plan Review Meeting, Appraisal Parcel Staking (one time); Preparation of legal descriptions for Permanent and Temporary Construction.	Provide a 100% contract document review meeting prior to bidding and allow two (2) full weeks (minimum) for City staff review. Incorporate review comments and revisions into all documents.	Prepare Contract Documents (drawings, specifications, and coordination/preparation of bidding documents/addenda) for bidding the construction in accordance with the requirements of the Director of Public Works and the City's procurement process.	Coordinate with CDOT for review of the documents and all necessary clearances required by CDOT. Incorporate review comments and revisions from CDOT into all documents.	Total Hours
Labor Category																
Project Manager/Civil Lead - (Jimmie Hayson)	\$178.00	3	8		12	6		1	18	6			6	8		74
Quality Control Manager- (Erica Olsen)	\$191.00				2				2				1			5
Traffic Engineer - (Annette Marquez)	\$178.00	1			2				2				1			6
Traffic Engineer - (Mitch Wagner)	\$135.00				12				12					2		26
Graduate Traffic Engineer (Jaime Hepner)	\$127.00				8			2	16					6		32
Graduate Civil Engineer - (Craig Hayson)	\$108.00				40				68				10	20		138
Graduate Civil Engineer - (Abri Torrez)	\$110.00							2	4				2			8
Senior PLS - (Scott Klinker)	\$185.00			4								12				16
Field Surveyor - (Ben Hardenberg)	\$120.00			62												62
Survey Technician - (Ryan Bartels)	\$108.00						6					58				64
S.U.E. Manager (Josh Anfinson)	\$207.00			2												2
S.U.E. Staff Engineer (Caleb McNutt)	\$137.00			9												9
S.U.E. Technician - (Bob Ewing)	\$102.00			17												17
Sr. Accounting Representative - (Suzie O'Connor)	\$118.00		4													4
Total Hours		4	12	94	76	6	6	5	122	6	70	19	35	8		463
Total Labor Cost		\$712	\$1,896	\$11,561	\$9,830	\$1,068	\$648	\$652	\$15,378	\$1,068	\$8,484	\$2,546	\$4,451	\$1,424		\$59,718.00
Other Direct Costs / Equipment / Materials / Supplies / Re-production / Mailings / Shipping / Services																
GPS/Robotics/UULE				\$1,155												\$1,155.00
Survey Vehicle				\$215.60												\$215.60
GPS/Robotics/Vehicle																\$0.00
Traffic Control																\$0.00
Permitting																\$0.00
Title Reports (3)											\$1,800					\$1,800.00
Subtotal		\$0.00	\$0.00	\$1,370.60	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,800.00	\$0.00	\$0.00	\$0.00		\$3,170.60
Travel Expenses / Vehicle Mileage / Lodging / M&IE / Per Diem																
Number of People Traveling:				3												
Meals and Lodging																
Lodging = \$115/ Night.				\$345.00												\$345.00
Meals = \$50 Per Diem				\$354.00												\$354.00
Vehicle Mileage - Travel to/from																
Round Trip Mileage - Federal GSA Rate = \$0.62/mile (2022 Rate).				\$253.75												\$253.75
Rental Car																
Rental Car (Pick-up) = \$50/day																\$0.00
Rental Car Gas																\$0.00
Subtotal – Travel Expenses / Vehicle Mileage / Lodging / M&IE / Per Diem		\$0	\$0	\$953		\$0			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$952.75
Total Cost		\$712.00	\$1,896.00	\$13,884.35	\$9,830.00	\$1,068.00	\$648.00	\$652.00	\$15,378.00	\$1,068.00	\$10,284.00	\$2,546.00	\$4,451.00	\$1,424.00		\$63,841.35



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: A RESOLUTION APPROVING A SPONSORSHIP AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND CACTUS COMMUNICATIONS, INC., A COLORADO CORPORATION, ON BEHALF OF ITS CLIENT, THE COLORADO LOTTERY

SUMMARY:

Attached is a Resolution approving a sponsorship agreement between the City of Pueblo and Cactus Communications, Inc. on behalf of its client, the Colorado Lottery, for the procurement and management of snow removal subcontractor services.

PREVIOUS COUNCIL ACTION:

Resolution No. 14792 was approved on January 24, 2022, approving an agreement with Cactus Communications, Inc. for the same sponsorship.

BACKGROUND:

The Colorado Lottery reached out to the Pueblo Parks and Recreation Department concerning a potential sponsorship for a snow removal program on the Arkansas River trail from Runyon Lake to the Lake Pueblo State Park boundary. The term of this agreement expires April 30, 2023, unless terminated sooner with agreement by both parties.

FINANCIAL IMPLICATIONS:

The Colorado Lottery will cover all expenses for the portion of the trail up to \$2,000 per plow for up to 8 inches of snowfall and \$2,450 per plow for snowfall over 8 inches.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not approving the Resolution will cause the sponsorship agreement from the vendor to be returned and the project will be canceled.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Sponsorship_Agreement_-_Snow_Removal_Colorado_Lottery_2023_Fully
Executed 11.01.22

RESOLUTION NO. 15071

A RESOLUTION APPROVING A SPONSORSHIP AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND CACTUS COMMUNICATIONS, INC., A COLORADO CORPORATION, ON BEHALF OF ITS CLIENT, THE COLORADO LOTTERY

WHEREAS, in accordance with Pueblo Municipal Code Section 10-1-2(b), the Director of Parks and Recreation is authorized to enter into short term non-exclusive advertising or sponsorship agreements exceeding \$10,000 in value and in favor of the City with approval by Resolution of City Council; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Sponsorship Agreement ("Agreement") by and between the City of Pueblo, a Municipal Corporation, and Cactus Communication, Inc., a Colorado Corporation, on behalf of its client the Colorado Lottery, making available \$20,000 in snow removal services, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The signature of the Director of Parks and Recreation to the Agreement is hereby authorized and ratified.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution.

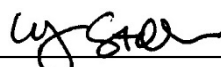
SECTION 4.

This Resolution shall become effective immediately upon final approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



SPONSORSHIP AGREEMENT /

CITY OF PUEBLO PARKS & RECREATION / ARKANSAS RIVER TRAIL SNOW REMOVAL

This sponsorship agreement ("Agreement") is made effective November 1, 2022 by and between City of Pueblo Parks & Recreation ("City"), and Cactus Communications, Inc., a Colorado corporation, on behalf of its client, the Colorado Lottery ("Sponsor"). City and Sponsor may be referred to together as "Parties" and individually as "Party."

- 1) **Term:** The term of the Agreement shall commence on November 1, 2022 ("Effective Date") and end on April 30, 2023 unless sooner terminated in accordance with the provisions of this Agreement (the "Term").
- 2) **Rights and Obligations:** The parties agree to and acknowledge the following rights and obligations under this Agreement:
 - a) City shall be solely responsible for the procurement and management of the snow removal subcontractor's services. City shall subcontract with its selected provider, Abe's Landscaping and Maintenance, although said provider may be changed as needed, ("Provider") to provide the following snow removal services:
 - i) Snow removal services are based on a 2" trigger.
 - ii) Plowing will typically begin within two hours after the snowfall has stopped. Overnight snowfall will be plowed after it stops, typically within two hours of sunrise. Daytime snowfall will be plowed typically within two hours of sunrise the following day unless there is ample sunlight to plow before dark on the same day
 - iii) Plowing of snow on the Arkansas River Trail will take place from Lake Pueblo Division of Wildlife border to Fay's Crossing bridge, including satellite trails to City Park, La Crosse Avenue parking lot, Main Street parking lot and the Pueblo Boulevard parking lot. Snow will also be removed on the loop around Lake Runyon (21.86 miles round trip, 2 passes).
 - iv) All snow plowing shall be considered "full plows" unless otherwise agreed by City of Pueblo Parks & Recreation and Provider before snow removal beings.
 - v) There are several sections of the trail system that have excessive concrete damage. Provider will clear as much of a reasonable path through these areas as possible. All bridges on this route will be plowed with a plow raised approximately 1" to not damage wood timbers or equipment. The area below Santa Fe Avenue (Green Bridge) will be plowed with a plow approximately 1" over the concrete due to steel expansion joints that are raised and damaged to prevent further damage to the steel and equipment.
 - b) City shall obtain from the snow removal service a certificate of insurance showing the State of Colorado, Department of Revenue and Cactus Communications as additional insureds and provide a copy of this certificate to Sponsor within ten days of execution of this Agreement. Such certificate shall identify coverages, coverage limits and carriers. Any deficiencies, as determined solely by Sponsor, shall be rectified within ten business days by subcontractor.



SPONSORSHIP AGREEMENT /

CITY OF PUEBLO PARKS & RECREATION / ARKANSAS RIVER TRAIL SNOW REMOVAL

c) During the Term of this Agreement, City shall install and maintain six (6) metal signs, measuring 12" x 18" along the Arkansas River Trail announcing, 'Snow Removal Courtesy of Colorado Lottery,' at the sole cost of the Sponsor. The signs will not be removed until a date mutually agreed upon by both Parties, but in no case will the signs remain in place past December 31, 2023 unless otherwise agreed upon in a signed writing. City shall be responsible for the maintenance and condition of the signs and shall repair or replace sign posts, bolts, or other supportive aspect of the sign and to replace any sign which becomes damaged. Sponsor shall provide City with replacement signs as needed. Specific placement and locations of the signs are as follows:

- i) Runyon Lake west parking lot
- ii) Main Street Trailhead
- iii) Wildhorse Creek Bridge
- iv) City Park Brookhart's Crossing Bridge
- v) 11th Street and Pueblo Boulevard
- vi) West of the Nature and Wildlife Discovery Center
- vii) Riverwalk – Allen Hamel Avenue and Santa Fe Avenue
- viii) Lake Pueblo State Park Boundary

- 3) **Sponsorship Fee:** In consideration of the sponsorship rights granted and benefits bestowed in this Agreement, Sponsor will pay for snow removal services as defined below. Invoices from the snow removal service shall be submitted to the City of Pueblo Parks and Recreation. City shall submit the invoices to Marie Valtakis with Colorado Lottery at marie.valtakis@state.co.us, which shall be denoted as "Sponsorship of snow removal along the Arkansas River Trail" and shall be payable within sixty (60) days from invoice date.

Rates agreed upon with Provider are \$2,000 per plow for up to 8" of snowfall and \$2,450 per plow for snowfall over 8". This sponsorship will be limited to not more than 10 plows within the timeframe of the agreement, or up to \$20,000 of billed services, whichever occurs first.

- 4) **Recap:** City shall provide to Sponsor a recap of Sponsor's investment in this Agreement within thirty days (30) of the expiration of this Agreement.
- 5) **Termination:** Sponsor's participation in this Agreement is funded solely by budget allotments from the State of Colorado. Sponsor may terminate this Agreement should the State funds be withdrawn due to any reason outside of Sponsor's control. Payment to City will be made for any benefits already provided as stated herein with no obligation for benefits not yet provided at the time of the termination notice.
- 6) **Grant of Trademark Use:** Sponsor hereby grants to City the right and non-exclusive, non-transferable, limited license to use, throughout the Term but not thereafter, its logos, trademarks, and service marks, together with related artwork (collectively, the "Sponsor Trademarks") for the limited purpose as specifically defined in this Agreement, all such usage to be pre-approved by Sponsor.



SPONSORSHIP AGREEMENT /

CITY OF PUEBLO PARKS & RECREATION / ARKANSAS RIVER TRAIL SNOW REMOVAL

Sponsor reserves the right to grant rights and/or licenses of any kind or nature whatsoever relating to the Sponsor Trademarks to any other third party. All Trademarks under this Agreement shall remain at all times the property of their respective owner, and nothing in this Agreement shall grant any ownership rights in the other party's Trademarks.

7) Indemnification:

- a) Sponsor hereby agrees to indemnify, save and hold harmless City, 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 Sponsor, its employees, agents, subcontractors or assignees.
- b) To the extent allowed by law, City hereby agrees to hold harmless the State of Colorado, the Colorado Lottery, and their employees and agents against all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by City, its employees, agents, or assignees.
- c) Sponsor and the Colorado Lottery are independent contractors for the purpose of this Agreement and do not own the land to be plowed nor do they control the activities of Provider, and neither party shall be liable for injuries on the plowed pathways.

8) Representation and Warranties:

Sponsor Warranties. Sponsor represents, warrants, and covenants to City as follows:

- a) It has the full right and legal authority to enter into and fully perform this Agreement in accordance with its terms.
- b) This Agreement, when executed and delivered by Sponsor, will be its legal, valid and binding obligation enforceable against Sponsor in accordance with its terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally.
- c) The execution and delivery of this Agreement has been duly authorized by Sponsor, and such execution and delivery and the performance by Sponsor of its obligations hereunder do not and will not violate or cause a breach of any other agreements or obligations to which it is a party or by which it is bound, and no approval or other action by any governmental authority or agency is required in connection herewith.

City Warranties. City represents warrants and covenants to Sponsor as follows:

- a) It has the full right and legal authority to enter into and fully perform this Agreement in accordance with its terms.
- b) This Agreement, when executed and delivered by City, will be its legal, valid and binding obligation enforceable against City in accordance with its terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally.
- c) The execution and delivery of this Agreement has been duly authorized by City, and such execution and delivery and the performance by City of its obligations hereunder do not and will not violate or



SPONSORSHIP AGREEMENT /

CITY OF PUEBLO PARKS & RECREATION / ARKANSAS RIVER TRAIL SNOW REMOVAL

cause a breach of any other agreements or obligations to which it is a party or by which it is bound, and no approval or other action by any governmental authority or agency is required in connection herewith.

- 9) **Independent Contractors:** The parties shall act solely as independent contractors, and nothing herein shall at any time be construed to create the relationship of employer and employee, partnership, principal and agent, or joint venture as between City and Sponsor. Neither party shall have any right or authority to, nor shall either party attempt to enter into any contract, commitment or agreement, or to incur any debt or liability of any nature, in the name, or on behalf, of the other party. Nothing in this Agreement is intended, nor should it be construed, to create any rights, claims, or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations conferred under federal or state law, including but not limited to the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.
- 10) **Choice of Law and Venue:** This Agreement and any dispute arising under it shall be governed by and construed in accordance with the laws of the State of Colorado without regard to conflict of law principles. All disputes pertaining to the Agreement shall be decided by a state or federal court located in the State of Colorado and Sponsor consents to personal jurisdiction in such courts.
- 11) **No Assignment:** This Agreement may not be assigned by either party except with the prior written consent of the other party.
- 12) **Notices:** All payments and notices required to be given hereunder shall be provided in writing either by personal delivery or overnight courier service, postage prepaid, at the respective addresses of the Parties as follows or such other addresses as may be designated in writing by the respective Party. Notice given by overnight courier service shall be deemed given on the first business day following mailing thereof, and notice given by personal delivery shall be deemed given upon actual receipt of such delivery by an authorized representative of the entity to which notice is being provided.

Sponsor: Jeff Graham
Cactus Communications
2128 15th St.
Denver, CO 80202
(303) 455-7545

City: Steven Meier
City of Pueblo Parks and Recreation
800 Goodnight Ave
Pueblo, CO 81005
(719) 553-2683

With a copy to:

City of Pueblo Law Department
1 City Hall Place
Pueblo, Colorado 81003
(719) 562-3899



SPONSORSHIP AGREEMENT / CITY OF PUEBLO PARKS & RECREATION / ARKANSAS RIVER TRAIL SNOW REMOVAL

- 13) **Entire Agreement:** This Agreement contains the entire understanding between the parties with respect to the subject matter herein, and all prior or contemporaneous promises, representations, agreements or understandings are expressly merged herein and superseded hereby. This Agreement shall not be modified, altered, amended or revoked except as set forth herein and in writing, duly executed by both parties.

AGREED AND ACCEPTED:

SPONSOR:

Cactus Communications, Inc. on behalf of
its client, Colorado Lottery

DocuSigned by:
By: 
2E0A804E33AB4A4...
Printed Name: Jeff Graham

Title: President

Date: 11/7/2022

CITY:

City of Pueblo Parks and Recreation

By: 
Printed Name: Steven Meier

Title: Director, Pueblo Parks and Recreation

Date: 11.7.22



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: A RESOLUTION TABLING FINAL ACTION ON THE PETITION FOR THE ANNEXATION OF THE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 1, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS

SUMMARY:

A Resolution tabling final action on the petition for the annexation area commonly known as Jackson Ranch Annexation 1 for an additional period of not more than 180 days.

PREVIOUS COUNCIL ACTION:

On June 13, 2022, City Council approved Resolutions 14908, 14909 and 14910 which preliminarily determined that the petition for the annexation of the areas commonly known as the Jackson Ranch Annexations 1, 2, and 3 were valid under the provisions of the Colorado Revised Statutes Sections 31-12-104(1)(a) and 31-12-107(1).

BACKGROUND:

On May 12, 2022, the petitioner, RJPC, LLC ("Jackson Ranch"), submitted an annexation petition for the Jackson Ranch Annexation 1 totaling 81.68-acres. Two concurrent annexation petitions were submitted by RJPC Ranch, LLC for properties located south of Highway 78 and the El Camino residential development. Jackson Ranch Annexations 1-3 will be reviewed simultaneously to provide 1/6 contiguity with the city limits, which is necessary for annexation into the City Pueblo. Proposed land uses, within the first phase of annexation, include mixed residential development, phase one of a small mixed commercial neighborhood center, with integrated open space and trails. The total land area of all three annexations is 1,898.71 acres.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Copies of the Petition for Annexation will be sent by registered mail by the City Clerk, the Board of County Commissioners, the County Attorney of Pueblo County and to any school district or special district having territory within the area to be annexed. Copies of an Annexation Impact Report will be filed with all taxing entities as required by Colorado Revised Statutes.

ALTERNATIVES:

If the extension is not approved, the applicant will be required to submit new petitions for annexation and restart the annexation process. The extension of the review period prior to final action on the petitions will allow the current process to continue.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Request for Extension-Jackson Ranch Annexation Letter No1

RESOLUTION NO. 15072

A RESOLUTION TABLING FINAL ACTION ON THE PETITION FOR THE ANNEXATION OF THE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 1, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Final action on the Petition is hereby tabled for an additional period of not more than one hundred eighty (180) days to May 27, 2023.

SECTION 2.

Upon receipt of the recommendation of the Planning and Zoning Commission, the City Council, without undue delay, shall make a final determination by Resolution whether the petition substantially complies with the applicable requirements of Section 31-12-107(1), C.R.S. and establish the date, time and place the City Council will hold a public hearing to determine if the proposed annexation complies with Sections 31-12-104 and 31-12-105, C.R.S. or such parts thereof as may be required to establish eligibility for annexation.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

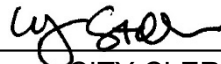
SECTION 4.

This Resolution shall become effective immediately upon final approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



November 9, 2022

Scott Hobson
Acting Director of Planning & Community Development
City of Pueblo
Planning and Community Development Department
211 E. D Street
Pueblo, CO 81003

RE: Jackson Ranch Annexation No. 1

Dear Mr. Hobson,

On behalf of RJPC, Ranch, LLC I would like to request an extension for a period of not more than 180 days for final action of council on the annexation of the area commonly known as the Jackson Ranch Annexation No. 1, which is located east of State Highway 78, in a portion of Sections 19 and 20, Township 21 South, Range 65 West of the 6th P.M., County of Pueblo, State of Colorado. Although significant progress has been made, due to the size of the major utilities extension, we are in ongoing discussion with the Pueblo Board of Water Works and the City's Sanitary Sewer Department. Also, the project continues to talk with School Districts 60 & 70. It appears we are close to having final documents with current exchanges occurring regarding specific language in the Annexation Agreement. We seek to work closely with City staff to find the best solutions.

I appreciate you submitting this to Council and Council's consideration of this extension. The current timeline for completion of the annexation is December 10th, 2022. I would ask that you present this to City Council at its meeting on November 28th, 2022 so that we can keep this annexation project moving forward.

Thank you for your courtesy and cooperation in this matter. If you have any questions or concerns, you can reach me at Jim.Houk@kimley-horn.com or 719-284-7280.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Jim Houk'.

Jim Houk, PLA
Project Manager



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: A RESOLUTION TABLING FINAL ACTION ON THE PETITION FOR THE ANNEXATION OF THE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 2, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING AND SOUTH OF JACKSON RANCH ANNEXATION 1, FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS

SUMMARY:

A Resolution tabling final action on the petition for the annexation area commonly known as Jackson Ranch Annexation 2 for an additional period of not more than 180 days.

PREVIOUS COUNCIL ACTION:

On June 13, 2022, City Council approved Resolutions 14908, 14909 and 14910 which preliminarily determined that the petition for the annexation of the areas commonly known as the Jackson Ranch Annexations 1, 2, and 3 were valid under the provisions of the Colorado Revised Statutes Sections 31-12-104(1)(a) and 31-12-107(1).

BACKGROUND:

On May 12, 2022, the petitioner, RJPC, LLC ("Jackson Ranch"), submitted an annexation petition for the Jackson Ranch Annexation 2 totaling 1,337.40-acres. Two concurrent annexation petitions were submitted by RJPC Ranch, LLC for properties located south of Highway 78 and the El Camino residential development. Jackson Ranch Annexations 1-3 will be reviewed simultaneously to provide 1/6 contiguity with the city limits, which is necessary for annexation into the City Pueblo. Proposed land uses, within the second phase of annexation, include mixed residential development, a small mixed commercial neighborhood center, with integrated open space and trails. The total land area of all three annexations is 1,898.71 acres.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Copies of the Petition for Annexation will be sent by registered mail by the City Clerk, the Board of County Commissioners, the County Attorney of Pueblo County and to any school district or special district having territory within the area to be annexed. Copies of an Annexation Impact Report will be filed with all taxing entities as required by Colorado Revised Statutes.

ALTERNATIVES:

If the extension is not approved, the applicant will be required to submit new petitions for annexation and restart the annexation process. The extension of the review period prior to final action on the petitions will allow the current process to continue.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Request for Extension-Jackson Ranch Annexation Letter No2

RESOLUTION NO. 15073

A RESOLUTION TABLING FINAL ACTION ON THE PETITION FOR THE ANNEXATION OF THE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 2, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING AND SOUTH OF JACKSON RANCH ANNEXATION 1, FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Final action on the Petition is hereby tabled for an additional period of not more than one hundred eighty (180) days to May 27, 2023.

SECTION 2.

Upon receipt of the recommendation of the Planning and Zoning Commission, the City Council, without undue delay, shall make a final determination by Resolution whether the petition substantially complies with the applicable requirements of Section 31-12-107(1), C.R.S. and establish the date, time and place the City Council will hold a public hearing to determine if the proposed annexation complies with Sections 31-12-104 and 31-12-105, C.R.S. or such parts thereof as may be required to establish eligibility for annexation.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

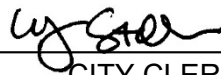
SECTION 4.

This Resolution shall become effective immediately upon final approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



November 9, 2022

Scott Hobson
Acting Director of Planning & Community Development
City of Pueblo
Planning and Community Development Department
211 E. D Street
Pueblo, CO 81003

RE: Jackson Ranch Annexation No. 2

Dear Mr. Hobson,

On behalf of RJPC, Ranch, LLC I would like to request an extension for a period of not more than 180 days for final action of council on the annexation of the area commonly known as the Jackson Ranch Annexation No. 2, which is located southeast of State Highway 78, in a portion of Sections 19, 20, 29, 30, and 31, Township 21 South, Range 65 West of the 6th P.M., County of Pueblo, State of Colorado.

Although significant progress has been made, due to the size of the major utilities extension, we are in ongoing discussion with the Pueblo Board of Water Works and the City's Sanitary Sewer Department. Also, the project continues to talk with School Districts 60 & 70. It appears we are close to having final documents with current exchanges occurring regarding specific language in the Annexation Agreement. We seek to work closely with City staff to find the best solutions.

I appreciate you submitting this to Council and Council's consideration of this extension. The current timeline for completion of the annexation is December 10th, 2022. I would ask that you present this to City Council at its meeting on November 28th, 2022 so that we can keep this annexation project moving forward.

Thank you for your courtesy and cooperation in this matter. If you have any questions or concerns, you can reach me at Jim.Houk@kimley-horn.com or 719-284-7280.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Jim Houk'.

Jim Houk, PLA
Project Manager



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: A RESOLUTION TABLING FINAL ACTION ON THE PETITION FOR THE ANNEXATION OF THE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 3, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING AND SOUTH OF JACKSON RANCH ANNEXATIONS 1 AND 2, FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS

SUMMARY:

A Resolution tabling final action on the petition for the annexation area commonly known as Jackson Ranch Annexation No. 3 for an additional period of not more than 180 days.

PREVIOUS COUNCIL ACTION:

On June 13, 2022, City Council approved Resolutions 14908, 14909 and 14910 which preliminarily determined that the petition for the annexation of the areas commonly known as the Jackson Ranch Annexations 1, 2, and 3 were valid under the provisions of the Colorado Revised Statutes Sections 31-12-104(1)(a) and 31-12-107(1).

BACKGROUND:

On May 12, 2022, the petitioner, RJPC, LLC ("Jackson Ranch"), submitted an annexation petition for the Jackson Ranch Annexation 3 totaling 479.63-acres. Two concurrent annexation petitions were submitted by RJPC Ranch, LLC for properties located south of Highway 78 and the El Camino residential development. Jackson Ranch Annexations 1-3 will be reviewed simultaneously to provide 1/6 contiguity with the city limits, which is necessary for annexation into the City Pueblo. Proposed land uses, within the third phase of annexation, include mixed residential development, a small mixed commercial neighborhood center, with integrated open space and trails. The total land area of all three annexations is 1,898.71-acres.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Copies of the Petition for Annexation will be sent by registered mail by the City Clerk, the Board of County Commissioners, the County Attorney of Pueblo County and to any school district or special district having territory within the area to be annexed. Copies of an Annexation Impact Report will be filed with all taxing entities as required by Colorado Revised Statutes.

ALTERNATIVES:

If the extension is not approved, the applicant will be required to submit new petitions for annexation and restart the annexation process. The extension of the review period prior to final action on the petitions will allow the current process to continue.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Request for Extension-Jackson Ranch Annexation Letter No3

RESOLUTION NO. 15074

A RESOLUTION TABLING FINAL ACTION ON THE PETITION FOR THE ANNEXATION OF THE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 3, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING AND SOUTH OF JACKSON RANCH ANNEXATIONS 1 AND 2, FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Final action on the Petition is hereby tabled for an additional period of not more than one hundred eighty (180) days to May 27, 2023.

SECTION 2.

Upon receipt of the recommendation of the Planning and Zoning Commission, the City Council, without undue delay, shall make a final determination by Resolution whether the petition substantially complies with the applicable requirements of Section 31-12-107(1), C.R.S. and establish the date, time and place the City Council will hold a public hearing to determine if the proposed annexation complies with Sections 31-12-104 and 31-12-105, C.R.S. or such parts thereof as may be required to establish eligibility for annexation.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

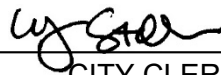
SECTION 4.

This Resolution shall become effective immediately upon final approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



November 9, 2022

Scott Hobson
Acting Director of Planning & Community Development
City of Pueblo
Planning and Community Development Department
211 E. D Street
Pueblo, CO 81003

RE: Jackson Ranch Annexation No. 3

Dear Mr. Hobson,

On behalf of RJPC, Ranch, LLC I would like to request an extension for a period of not more than 180 days for final action of council on the annexation of the area commonly known as the Jackson Ranch Annexation No. 3, which is located southeast of State Highway 78, in a portion of Section 25, Township 21 South, Range 66 West of the 6th P.M., County of Pueblo, State of Colorado. Although significant progress has been made, due to the size of the major utilities extension, we are in ongoing discussion with the Pueblo Board of Water Works and the City's Sanitary Sewer Department. Also, the project continues to talk with School Districts 60 & 70. It appears we are close to having final documents with current exchanges occurring regarding specific language in the Annexation Agreement. We seek to work closely with City staff to find the best solutions.

I appreciate you submitting this to Council and Council's consideration of this extension. The current timeline for completion of the annexation is December 10th, 2022. I would ask that you present this to City Council at its meeting on November 28th, 2022 so that we can keep this annexation project moving forward.

Thank you for your courtesy and cooperation in this matter. If you have any questions or concerns, you can reach me at Jim.Houk@kimley-horn.com or 719-284-7280.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Jim Houk", with a stylized flourish at the end.

Jim Houk, PLA
Project Manager



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: A RESOLUTION AUTHORIZING PARTICIPATION BY THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, IN THE STATE OF COLORADO'S RURAL JUMP-START PROGRAM

SUMMARY:

The attached Resolution authorizes the City to participate in the State of Colorado's Rural Jump-Start Program.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

The Rural Jump-Start Zone program (based on Senate Bills 15-282 and 21-229) is a grant and tax relief program for New Businesses and New Hires which locate in designated rural, economically distressed areas of Colorado which have created a Rural Jump-Start Zone. The program offers the following benefits for New Businesses approved for the program in the City and County of Pueblo:

- Grants up to \$40,000 on a 3:1 reimbursement basis for business expenses
- Grants up to \$5,000 per net New Hire in the program
- Grant amounts are double that of a normal economically-distressed county because Pueblo County is a Tier 1 Just Transition Community
- Relief from state income taxes
- Relief from the state sales & use tax
- Relief from county and municipal business personal property tax
- Relief from personal state income taxes for the New Hire

This program is jointly administered by the Colorado Office of Economic Development and International Trade (OEDIT), the Colorado Economic Development Commission (EDC) and the Colorado Department of Revenue.

The following counties have formed Rural Jump-Start zones: Alamosa, Archuleta, Clear Creek, Delta, Dolores, Fremont, Garfield (excluding Glenwood Springs and Carbondale), Huerfano, Las Animas, Lincoln, Logan, Mesa, Moffat, Montezuma, Montrose, Otero, Phillips, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, San Juan and Sedgwick.

This program is a collaborative effort between economic development organizations, institutes of higher education, counties, municipalities, businesses and employees.

Sponsoring entities include institutes of higher education (IHEs); two- and four-year public colleges in Colorado and certain specialty schools; and Economic Development Organizations (EDO). The Sponsoring Entity is a key liaison between the public and private sectors in each county. Every business which applies to the program must be endorsed by and apply through a Sponsoring Entity in their specific Rural Jump-Start Zone. Pueblo County has two sponsoring entities: Colorado State University – Pueblo and Pueblo Community College.

To participate in this program, a county must be designated as economically distressed by the EDC. Once designated, the county must pass a resolution to offer tax relief and be approved by the EDC to participate in the program. Pueblo County has passed such a resolution and is a participant in this program.

To participate in this program, a municipality must first be in a county that has passed a resolution and approved by the EDC to become a Rural Jump-Start Zone. The municipality must also pass a resolution to participate and offer tax relief. No municipality can be forced to participate in the program, and a municipality is not enrolled in the program simply because the county is.

A business that wishes to participate in this program must be a new business that is locating into the Rural Jump-Start Zone. Furthermore, the business must apply to the IHE/EDO and be endorsed by the IHE/EDO.

Employees who wish to participate in the program must be working for a business that has been approved by the EDC. Employees must earn at least the county average annual wage, be a full-time employee spending 80% or more of their work time in the county and be with the new business for six months to receive benefits.

FINANCIAL IMPLICATIONS:

Under the attached Resolution, the City of Pueblo agrees to provide incentive payments, exemptions, or refunds, as appropriate, for 100% of the municipal business personal property tax imposed on all new businesses that are approved by the Colorado Economic Development Commission to participate in the Rural Jump-Start

program, for as long as the Colorado Economic Development Commission designates these new businesses as approved for the Rural Jump-Start program, with the understanding that such tax relief is limited by state statute to eight years for each new business.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to increase the funding for this sewer infrastructure project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15075

A RESOLUTION AUTHORIZING PARTICIPATION BY THE CITY
OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, IN
THE STATE OF COLORADO'S RURAL JUMP-START
PROGRAM

WHEREAS, the State of Colorado has recently enacted the Rural Jump-Start Zone program (CRS 39-30.5-106) for the express purpose of encouraging economic development in the rural areas of Colorado; and,

WHEREAS, the City Council recognizes that it would be beneficial to increase economic development in the City; and,

WHEREAS, the City Council has determined that it is in the best interests of the city to participate in the Rural Jump-Start program; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council of the City of Pueblo supports further investigation and planning regarding the feasibility of constructing an automated transit network in the City.

SECTION 2.

In the course of this participation, the City of Pueblo does hereby agree to provide incentive payments, exemptions, or refunds, as appropriate, for 100% of the municipal business personal property tax imposed on all new businesses that are approved by the Colorado Economic Development Commission to participate in the Rural Jump-Start program, for as long as the Colorado Economic Development Commission designates these new businesses as approved for the Rural Jump-Start program, with the understanding that such tax relief is limited by state statute to eight years for each new business.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

SECTION 4.

This Resolution shall become effective immediately upon final passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: A RESOLUTION IN SUPPORT OF FURTHER INVESTIGATION AND PLANNING CONCERNING THE FEASIBILITY OF CONSTRUCTING AN AUTOMATED TRANSIT NETWORK IN THE CITY OF PUEBLO

SUMMARY:

Attached is a Resolution supporting further investigation and planning regarding the feasibility of constructing an automated transit network ("ATN") in the City.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

ATN's could provide for increased mobility (at lower costs) to Pueblo residents and could also promote increased environmental sustainability in our community. The City of Pueblo is faced with increasing traffic congestion and a lack of adequate parking, particularly in the City's central business district. By and large, City residents are forced to use gasoline-powered vehicles for travel purposes within the City. Such vehicles not only contribute to global warming, but are also inefficient and more expensive both in terms of time and money.

The technology for ATN's already exists and is improving. ATN riders have traveled over 200 million injury-free miles. ATN systems are currently in operation in five different countries, including the USA.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City in passing this Resolution. No formal feasibility study is authorized by this Resolution. Further investigation and planning will be conducted through seminars and workshops with input from third parties and the public.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could choose not to publicly support the further study and possible development of ATN's in the City.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15076

A RESOLUTION IN SUPPORT OF FURTHER INVESTIGATION
AND PLANNING CONCERNING THE FEASIBILITY OF
CONSTRUCTING AN AUTOMATED TRANSIT NETWORK IN
THE CITY OF PUEBLO

WHEREAS, Automated Transit Networks ("ATN's") could provide for increased mobility (at lower costs) to Pueblo residents and could also promote increased environmental sustainability in our community. The City of Pueblo is faced with increasing traffic congestion and a lack of adequate parking, particularly in the City's central business district. By and large, City residents are forced to use gasoline-powered vehicles for travel purposes within the City. Such vehicles not only contribute to global warming, but are also inefficient and more expensive both in terms of time and money; and

WHEREAS, the technology for ATN's already exists and is improving. ATN riders have traveled over 200 million injury-free miles. ATN systems are currently in operation in five different countries, including the USA; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council of the City of Pueblo supports further investigation and planning regarding the feasibility of constructing an automated transit network in the City.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

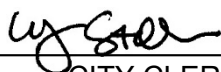
SECTION 3.

This Resolution shall become effective immediately upon final passage and approval.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF KENNEDY PUGH, ORLANDO RODRIGUEZ II, AND BENJAMIN CALDERA TO THE PUEBLO HUMAN RELATIONS COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of three members to the Pueblo Human Relations Commission.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Pueblo Human Relations Commission selecting individuals to serve terms which expire during a particular calendar year. Amended City Charter Section 4-4 (i) now requires that such appointments be made by the Mayor, subject to confirmation by City Council.

BACKGROUND:

Due to the resignations of Sarah Habib, Colleen Clark, and Fred Boatwright, there are three City appointments available on the Pueblo Human Relations Committee.

The applications were reviewed by Mayor Gradisar who has appointed Kennedy Pugh and Orlando Rodriguez to complete terms expiring December 31, 2024 and Benjamin Caldera to complete a term expiring December 31, 2022.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from the agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the resolution.

ATTACHMENTS:

1. HRC - Caldera Packet
2. HRC - Pugh Packet
3. HRC - Rodriguez Packet

RESOLUTION NO. 15077

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF KENNEDY PUGH, ORLANDO RODRIGUEZ II, AND
BENJAMIN CALDERA TO THE PUEBLO HUMAN RELATIONS
COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointments of Kennedy Pugh, Orlando Rodriguez, II, and Benjamin Caldera to serve on the Pueblo Human Relations Commission; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Kennedy Pugh and Orlando Rodriguez, II to the Pueblo Human Relations Commission to complete a three-year term expiring December 31, 2024 shall be and is hereby confirmed by the City Council.

SECTION 2.

The appointment by the Mayor of Benjamin Caldera to the Pueblo Human Relations Commission to complete a three-year term expiring December 31, 2022 shall be and is hereby confirmed by the City Council

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this resolution to implement the appointments described herein.

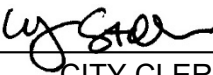
SECTION 4.

This resolution shall become effective on the date of final action by the Mayor and City Council.

INTRODUCED: November 28, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: PUEBLO HUMAN RELATIONS COMMISSION
Date: Wednesday, November 2, 2022 3:48:14 PM

External email. Please use caution.

PUEBLO HUMAN RELATIONS COMMISSION

PUEBLO HUMAN RELATIONS COMMISSION Application for Appointment

The Pueblo Human Relations Commission is committed to promoting mutual understanding and respect for all citizens and promoting open dialogue for all to participate.

Contact Information

DATE	11/2/2022
FIRST NAME	Benjamin
Middle Initial	<i>Field not completed.</i>
LAST NAME	Caldera
HOME ADDRESS	177 e Idaho Springs Dr
CITY	Pueblo
STATE	CO
ZIP	81007
HOME PHONE	719-334-0826
WORK PHONE	<i>Field not completed.</i>
CELL PHONE	<i>Field not completed.</i>
E-MAIL ADDRESS	bencaldera@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF	No

PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

WM Clinical Supervisor at Crossroads' Turning Points

EDUCATION

Bachelors of Arts in Psychology and Major in World Languages
Arts in Spanish

Group Representation

Please check the
category or categories
that best describes
your qualifications or
interest:

Racial, Gender, Ethnic

Questionnaire

Please complete the following general information.

Please elaborate on
your qualifications for
or interest in the
category or categories
you selected above.

My education at Colorado State University Pueblo acquiring a Bachelors Degree double major in Psychology and Spanish would help bring an educational perspective to racial, gender, and ethnic issues. As well as my experience working at Crossroads' Turning Points in multiple programs, seeing a population of the community that deals with the issues of racial, gender, and ethnic concerns.
Benjamin Caldera BA, CAS WM Clinical Supervisor at Crossroads Turning Points

Why do you want to
serve on the Human
Relations
Commission?

I would like to bring my experience in the field of substance use from Crossroads' Turning Points and my education to the community concerning multiple areas of racial, gender, and ethnic concerns. I would like to develop plans and solutions to address the various areas with community assistance.

How much time are
you willing to devote to
fulfill the obligations as
a Human Relations
Commission Member?

I am willing to devote 8 hours per week.

What special
accommodations, if
any, will you need as a
Commission Member?
(Translator, Signer,

None

Transportation, etc.)

What abilities and skills do you have which can be used as a resource to the Human Relations Commission?
Bi-lingual? Signing?
Other?

Certified Addiction Specialist, Intermediate Spanish Proficiency, Advanced Computer Skills.

What are the three most important issues that you feel this Commission can play a role in addressing?

Improve Community Resources
Address ethical concerns of special population groups
Connect existing community members and resources

What do you feel are Pueblo's strengths?

Diversity, push to change community, and harm reduction approach

What do you feel are Pueblo's greatest challenges?

Community collaboration and inclusiveness

(Section Break)

Upload resume, references and/or other pertinent information

[Benjamin_Caldera_Resume.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

bencaldera@gmail.com

719.334.0826

177 E Idaho Springs Dr.

Pueblo, CO 81007

Skills

- Developed operational plans
- Employee supervision
- Employee performance and evaluations
- Employee training program
- Staff development
- Multidisciplinary team collaboration
- Critical thinking
- Employee work scheduling
- Verbal and Written communication
- Unit supervision
- Improving clinical quality outcomes
- Clinical skills

Education And Training

05/2022

Bachelor of Arts:

Psychology, Spanish

Colorado State University - Pueblo

Pueblo, CO

- 3.825 GPA
- Magna cum laude graduate
- BA in Psychology and Spanish

Certifications

- Certified Addiction Specialist
ACC.0021144 4/13/2021 - 8/31/2023

Languages

Spanish:

Professional

Benjamin Caldera

Summary

Proficient Clinical Supervisor bringing over 3 years of behavioral health experience to a rapidly growing non-profit organization. Talented in improving staff competencies, managing staff schedules, building relationships with the community and overseeing the delivery of care to patients afflicted with substance use disorders.

Experience

Crossroads Turning Points - Clinical Supervisor of Withdrawal Management

Pueblo, CO

12/2021 - Current

- Managed 12-person team of clinical personnel. Increased Medicaid compliance throughout unit documentation resulting in a \$300,000+ surplus of funds.
- Interviewed applicants and collaborated on new hire decisions.
- Improve policies and procedures through the development, implementation, revision and evaluation of new protocols to ensure better clinical outcomes and appropriate documentation.
- Created and implemented improvement plans to resolve issues and drive improvements in deficient areas with staff and care for patients.
- Delegated tasks to each member of staff and oversaw task completion aiding promote success.
- Interacted with patients, asked appropriate questions and assessed for a referral to an appropriate level of care.

Crossroads Turning Points - Clinical Assistant of Withdrawal Management

Pueblo, CO

04/2021 - 12/2022

- Operated under supervision of Chief Innovation Officer to implement change and structure to a disorganized program.
- Drove attainment of optimal outcomes through case management focused on appropriate treatment, clinical quality assurance and service utilization.
- Restructured referral process and criteria for Withdrawal Management Services.

Crossroads Turning Points - Complex Case Manager

Pueblo, CO

09/2019 - 04/2021

- Implemented and collected documentation using various programs to track patient resources and identify high-risk patients.
- Secured over 30+ business partnerships in the community to provide individualized care and resources to patients.
- Studied treatment plans to understand and implement interventions.
- Collaborated with legal services providers, social services agencies and local judicial systems regarding cases.
- Performed psychosocial assessments and evaluations of current needs.

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: PUEBLO HUMAN RELATIONS COMMISSION
Date: Monday, November 7, 2022 11:15:47 PM

External email. Please use caution.

PUEBLO HUMAN RELATIONS COMMISSION

PUEBLO HUMAN RELATIONS COMMISSION Application for Appointment

The Pueblo Human Relations Commission is committed to promoting mutual understanding and respect for all citizens and promoting open dialogue for all to participate.

Contact Information

DATE	11/7/2022
FIRST NAME	Kennedy
Middle Initial	Field not completed.
LAST NAME	Pugh
HOME ADDRESS	28225 Iris Road
CITY	Pueblo
STATE	Colorado
ZIP	81006
HOME PHONE	3034891982
WORK PHONE	Field not completed.
CELL PHONE	Field not completed.
E-MAIL ADDRESS	kennedypugh@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF	No

PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Producer/

EDUCATION

Communication and Theater Education/ Eastern New Mexico
University

Group Representation

Please check the
category or categories
that best describes
your qualifications or
interest:

Religious, Racial, Gender, Sexual Orientation, Disabled, Ethnic

Questionnaire

Please complete the following general information.

Please elaborate on
your qualifications for
or interest in the
category or categories
you selected above.

I am a product of Pueblo, Colorado. I have been an active participant in various facets of Pueblo. My family has been life long members of St. Joseph's Catholic Church in Blende. I have served on many local boards and participated in various organizations in Pueblo over the years.. (Red Cross, Boy Scouts of America, Sangre De Cristo Arts Center, Parish Council St. Joseph's Parish, Pueblo Arts Alliance, Groupo Folklorico Del Pueblo,

I am qualified and have a passionate interest in being part of this commission because I truly have mutual understanding and respect for all persons of any marginalized groups including but not limited to; age, race, creed, color, disability, gender, sexual orientation or national origin. I believe I can offer assistance to serve as a advocate for equal rights for all persons. That our community of Pueblo as a part of the United States of America can say with confidence "Liberty and Justice for ALL"!

Why do you want to
serve on the Human
Relations
Commission?

Simply. I have appreciated and love Pueblo. I am a son of Pueblo. It is important that I give back. I share my gifts to a community that has been a gift to me.It is my civic duty to serve. I would be honored and humbled.

How much time are
you willing to devote to
fulfill the obligations as
a Human Relations

Human Relations is my life. It is what I do. It is part of my being and existence. I believe it has been a vocation of mine to always aid humanity on a private, local, national or world scale the ability to grow in unity and live as one human family.

Commission Member?

What special accommodations, if any, will you need as a Commission Member? (Translator, Signer, Transportation, etc.)

I am a gifted communicator. I am a coach of speech and debate/ Educator at The Arts Academy @ Pueblo County HS. in my work I try to live what I teach. I teach my students to have civil discussion. To be respectful of everyone. To find ways of using critical and analytical thinking in every decision they make. I find ways of help others navigate their path to always see the full perspective of each human thus creating a better environment and place for all to thrive and be their best self.

What abilities and skills do you have which can be used as a resource to the Human Relations Commission?
Bi-lingual? Signing?
Other?

I have worked in the arts most of my life. I have realized how the arts can be a tool to bring awareness, develop empathy, study the human condition and create a place for comprehensive growth in those places we find difficulty, the conversations we find hard, or the demons we don't want to face.

On a practical level. I also know sign language. May need to brush up a bit. :)

I am a creative individual who has gifts in producing and various forms of the arts.

What are the three most important issues that you feel this Commission can play a role in addressing?

Homeless Population
Cultural acknowledgement and respect.
Issues of systemic bias

What do you feel are Pueblo's strengths?

DIVERSITY..... is one of Pueblo's greatest strengths.

When Pueblo will celebrates its Diversity. Its identity shines like the beautiful "Mosaic" it is....I believe motivating every citizen to embrace this concept. Pueblo will know these moments as times of pride for it will be seen in its true glory. A community that celebrates each culture and what they have brought to create this TOWN called TOWN at the convergence of the rivers. I believe it will be a community where every citizen can say with pride. I am PUEBLO. .I helped create something beautiful.

We must become a community where every individual knows they are an important piece of the mosaic , The MOSAIC of Pueblo.

Pueblo is the HOME OF HEROES. Those HEROES must be seen beyond those who have so proudly demonstrated that in our Military. We must ask ourselves. Why are they HEROES....They are HEROES because of their selfless attitude to care for their neighbor. We must all become HEROES to the person living next door to us. That is what we must strive for and follow their example instead of exploiting their actions as a motto

we wear as a badge of pride.

I believe it will also be an example for the rest of the State of Colorado and the USA.

What do you feel are Pueblo's greatest challenges?

WORKING IN SILOS.

Pueblo really needs to realize that we are better when we work together. I believe there have been too many individuals, groups, institutions, organizations, nonprofits and government agencies that have neglected the wisdom of collaboration.

We need to make certain every citizen in Pueblo knows there is a place at the table for them. We need to rid folks of the fear of being on the "menu" by ensuring attitudes of inclusion, equity and diversity in every aspect of our community. The citizens of Pueblo need to participate in their healing and the choices that are being made in their interests. They have to be active participants in their fate. It is then they will have the hope and courage to make it through the tough discussions and times.

(Section Break)

Upload resume, references and/or other pertinent information

[CAAA BIO \(1\).docx](#)

Email not displaying correctly? [View it in your browser.](#)

Kennedy has been, and is a conscientious contributor demonstrating selfless service and has inspired others to take action and catalyze change in the Pueblo community and beyond.

An African-American born in Denver, Colorado and growing up in Pueblo, Colorado, Kennedy has been instrumental in bringing together arts and artists in our community through collaboration with local and regional talent to advance arts locally. In 2015, Kennedy registered Articles of Organization with the Colorado Secretary of State forming the Colorado Arts and Artist Associates (CAAA) to further this work. A member of the Pueblo Arts Alliance and a resident of the Arts Alliance Studios on the Pueblo Creative Corridor, a certified Creative District and community-wide partnership focused on three unique historic centers of Pueblo: Downtown Main Street, Union Avenue Historic District, and the Mesa Junction, Kennedy's and the CAAA mission is: *"We provide awareness through using the arts as a tool for Social Justice. CAAA believes in establishing creative communities and projects that inspire, nurture, promote, support, expand quality education and entertainment to all demographics."*

Through creative leadership and volunteerism, Kennedy Pugh has demonstrated a significant commitment to Pueblo's creative landscape including advocacy, vision, collaboration and innovation to enhance Pueblo's social and economic fabric, quality of life and well-being. Examples of his commitment and engagement include:

All Pueblo Reads – As a founding member of Southern Colorado Theatre Company, Kennedy collaborated with volunteers to bring *Living Books* sponsored by the Pueblo County Bar Association, a free live performance of *"To Kill A Mockingbird"* at Pueblo's Impossible Playhouse to the events schedule for the Pueblo City/County Library's first All Pueblo Reads (2005). The following year (2006), similar collaborations brought *"Stand and Deliver"* to the Pueblo Community College Hoag Theatre for that year's All Pueblo Reads, a literary project designed to get everyone in Pueblo County reading and discussing one book at the same time. Continuing today, the goal of these events is to promote dialogue across cultural, generational, and socioeconomic lines.

Pueblo Arts Alliance – Kennedy aided in the start-up of the Pueblo Arts Alliance and actively participated on various committees to further economic and arts development in the community. Over the years, Kennedy has served as a volunteer member of various local non-profit organization Boards such as The Sangre de Cristo Arts & Conference Center, The Impossible Players, Grupo Folklorico del Pueblo, Southern Colorado Theatre Company where he also served as Artistic Director and was an Ambassador for the Greater Pueblo Chamber of Commerce.

Music for the Cause – An offspring of CAAA, Music for the Cause's mission is *"to provide cost-effective professional grade entertainment to businesses, organizations or groups that desire to raise awareness and/or funding for their cause."* Under the leadership of Kennedy Pugh, this organization performs and recruits performers, many who are volunteers, and participates in numerous cultural events for the El Pueblo History Museum, a History Colorado site in Pueblo. Performances and events include, but are not necessarily limited to Black History Month Programs, the Pueblo Chili & Frijoles Festival, the Bessemer Historical Society *Steel'abration* event and many more.

Colorado Arts and Artist Associates (CAAA) aka Colorado Art & Artist Development Associates (CAADA) – (MUSIC FOR THE CAUSE, ARTS IN ACTION) To numerous to mention, the following is a brief list of other contributions Kennedy Pugh has made to the community of Pueblo:

Block Party/Mental Health Awareness Walk – For the past four years, Kennedy consulted and collaborated in producing a *Block Party/Mental Health Awareness Walk* with Friendly Harbor / NAMI (National Alliance for the Mentally Ill) for which he received recognition as volunteer of the year (2017) from the Southern Colorado Community Foundation.

Kilroy and the Boy Soldier – 2019 saw the completion of the film “*Kilroy and the Boy Soldier*” produced by Kennedy Pugh and CAAA. The film won best documentary at the 2019 SISFA Film Festival and later the same year sold out screenings hosted by the Pueblo City/County Library District.

Seven a documentary play – Recognizing that Pueblo is no stranger to sexual and labor trafficking, domestic violence and rape, Kennedy was able to convene a small group of volunteers who joined in his passion to bring *Seven* to Pueblo. Originally scheduled for a 3-day run in March of 2018, Kennedy’s CAAA production of *Seven a documentary play* by popular demand ran seven performances over four months and people are still asking to bring it back. Supported by sponsors, performances were made available free of charge to all who attended. Adding to the event, a resource fair and talk-back after the performance invited service agencies such as Pueblo Rape Crisis Center, Pueblo Alliance to Combat Human Trafficking, Health Solutions (a behavioral health provider) and others to bring the message home to Pueblo by sharing service agency resources before and engaging audience members in discussion after the play.

Ludlow...Love, Labor, Loss – Collaborated in the creation and production of an original musical on Colorado’s Ludlow massacre presented at El Pueblo History Museum.

Artist in Residence/Teaching Artist Coordinator – Kennedy Pugh serves the youth in our community as Artist in Residence / Teaching and Artist Coordinator for The Arts Academy at Pueblo County High School, where he was recipient of the Volunteer of the Year Award (2018) for his work with The Arts Academy. Kennedy Pugh is the 2020/2021 State of Colorado Governor Leadership Award Winner for his work in the arts.

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: PUEBLO HUMAN RELATIONS COMMISSION
Date: Wednesday, November 2, 2022 10:11:55 PM

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PUEBLO HUMAN RELATIONS COMMISSION

PUEBLO HUMAN RELATIONS COMMISSION Application for Appointment

The Pueblo Human Relations Commission is committed to promoting mutual understanding and respect for all citizens and promoting open dialogue for all to participate.

Contact Information

DATE	11/2/2022
FIRST NAME	Orlando
Middle Initial	Field not completed.
LAST NAME	Rodriguez II
HOME ADDRESS	1226 E Rustic Dr
CITY	Pueblo West
STATE	CO
ZIP	81007
HOME PHONE	719-334-4521
WORK PHONE	719-546-4043
CELL PHONE	719-334-4521
E-MAIL ADDRESS	orlando.rodriguezgnr@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF	No

PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Social Worker/Counselor III
Specializing in Substance Misuse and Mental Health treatment

EDUCATION

MSW

Group Representation

Please check the
category or categories
that best describes
your qualifications or
interest:

Religious, Racial, Gender, Sexual Orientation, Disabled, Ethic,
Generational

Questionnaire

Please complete the following general information.

Please elaborate on
your qualifications for
or interest in the
category or categories
you selected above.

As stated in the National Association of Social Workers, Ethical Principle of Competence, "We are to respect the inherent dignity and worth of the person. Social workers treat each person in a caring and respectful fashion, mindful of individual differences and cultural and ethnic diversity" being an advocate for behavioral health access in my community, as an individual with lived experience and in recovery, I have come to honor the diversity and uniqueness of all people. I have qualifications and an interest in each of these topics because I have learned the value of diversity as a strength while also acknowledging the specific challenges people experience in the service of self-empowerment. These terms are essential components of a person's identity; not acknowledging them is a disservice to them and to my core values.

Why do you want to
serve on the Human
Relations
Commission?

I believe in the mission statement; I understand that the commission comprises a group of individuals, all with unique strengths and perspectives with similar goals, and ultimately strives to lift the human condition. I think this commission will provide a great opportunity to better serve all people of Pueblo, and I want to be a part of that effort.

How much time are
you willing to devote to
fulfill the obligations as
a Human Relations
Commission Member?

I am willing to donate as much time as is required to accomplish any set goals made by the commission. My availability wavers monthly as other commitments to work, family, and advocacy may arise; I am very much committed to playing my part as a commission member.

What special accommodations, if any, will you need as a Commission Member? (Translator, Signer, Transportation, etc.)	None.
What abilities and skills do you have which can be used as a resource to the Human Relations Commission? Bi-lingual? Signing? Other?	I specialize in the clinical practice of behavioral health and practice other social work principles; I am comfortable speaking to groups, networking, team building, and crisis management. I am also an artist and would be happy to lend my talents in the service of Human Relations.
What are the three most important issues that you feel this Commission can play a role in addressing?	I believe the Commission can aid in educating the community on diversity. I find the issue of stigma to be a common matter across all types of social justice issues, such as a lack of understanding of mental health to criminalizing people of color; I think to challenge social messaging and indifference, there needs to be an attempt to provide and facilitate an increase in education, exposure between cultures and ethnicity, and interactions. I hope the commission can develop pathways to increasing the overall wellness of our communities in Pueblo by addressing issues such as mental health, substance misuse, safety, and access to social programs.
What do you feel are Pueblo's strengths?	Pueblo has a history enriched with culture and traditions. Pueblo also has a prominent faith-based presence, which often serves as a primary source of connection for many communities here regarding resources such as clothing, food, spirituality, and other basic needs. I believe the People of Pueblo are its greatest assets, above all else. The people of Pueblo are resilient, resourceful, and unique.
What do you feel are Pueblo's greatest challenges?	Working in the behavioral health field, I have seen a lack of resources available to people seeking the continuum of care after a crisis or treatment; it is often in these 'gaps' or service people often fall through the cracks of the mental, justice, and or medical care system. I also feel the stigma of behavioral health is a tremendous challenge for the people of Pueblo. Not only does a social stigma influence how people perceive someone living with substance misuse and mental illness, but provider stigma, structural stigma,

and cultural stigma is common influences in whether or not an individual receives access to the treatment they require to become well. To challenge stigma would require a fundamental approach that entails education, exposure, and interaction on multiple levels, such as individual, family, and community,

(Section Break)

Upload resume,
references and/or other
pertinent information

[resume 8.2022.docx](#)

Email not displaying correctly? [View it in your browser.](#)

ORLANDO RODRIGUEZ

P: 719-334-4521 | **E:** Orlando.Rodriguezgnr@gmail.com **E:** Orlando.Rodriguez@state.co.us

E: OrlandoR@health.solutions

SUMMARY

I am currently an MSW pursuing my LCSW licensure with aspirations in carrying my experience into a career field, emphasizing in AOD and Mental Health treatment. I am a registered Certified Addictions Specialist through the state of Colorado and practicing under the Colorado Mental Health Institute of Pueblo (CMHIP). I am seeking a position with a growth organization that will best utilize my knowledge and eagerness to grow in experience within Human Behavior that specializes in the field of AOD and Mental Health. I want the challenges and experiences that will shape me into a successful and professional treatment provider. In doing so, I hope to utilize the knowledge and experience to help empower individuals, in joining them on their path to wellness; becoming actively involved in the betterment of self, family, and community.

SKILLS

Crisis Intervention . Case Management . Group Facilitation . De-escalation techniques . Networking . Flexibility and Adaptability . Critical Thinking . Stress Tolerance . Team Building Skills . Detail Orientated . Ability to build trust and rapport quickly . Excellent communication and listening skills . Strong Interpersonal skills . Applies compassion and empathy with treatment . Adjust treatment to work within Inpatient and Outpatient settings . Working with a Multi-Disciplinary team .

EXPERIENCE

Colorado Mental Health Institute Pueblo (CMHIP) | CMHIP Recovery Continuum (CRC)

Social Worker/Counselor III

4/2021 to Present

CRC provides the delivery of substance use disorder assessment, education, program development, and evaluation throughout the CMHIP. CRC supports mental health recovery by assisting patients, staff, and family members in their ability to grow hope, strengthen the treatment alliance and aid clients in moving to the next in their recovery.

Health Solutions | Acute Treatment Unit | Pueblo, Co

Healthcare Specialist III/ PRN

10/2021 to Present

Health Solutions ATU is a premier wellness center focused on whole-person care. The ATU provides a safe and secure environment for individuals who do not require hospitalization or an extended length of stay. Staff work closely with each individual, providing Dialectical Behavior Therapy skills groups, individual and family meetings, and, if indicated, medication evaluation and management.

Gateway to Success (GTS) | Pueblo, Co

Clinician/Case Manager

1/2020 to 4/2021

GTS is a substance use disorder and behavioral health treatment agency, specializing in court mandated and MAT treatments. GTS is licensed to provide outpatient programming for the ASAM level of care.

By providing a safe and controlled environment for individuals living with substance use disorders (SUDs); facilitates the initial steps towards a path to wellness for Substance Misuse treatment, while ensuring agency standards and mission statement are upheld.

CERTIFICATIONS | TRAINING

Addiction Specialist (ACA. 0020986)

issued 09/01/2019 | current

Adult CPR/AED/First Aid certification

issued 4/2021 to 4/2023

Registered Unlicensed Psychotherapist (NLC. 0109302)

issued 09/01/2019 | current

Driving with Care DUI Level II education and treatment

Issued 11/2020

Self-Improvement Strategies and Change (SSC)

Issued 1/29/2020

Outpatient Restoration Program (ORP)

Issued 2/2020

Moral Recognition Therapy (MRT)

Issued 5/2020

Interlock Enhancement Counseling

Issued 1/2021

EDUCATION

Pueblo Community College | Pueblo, Co
Associates of Arts (AA)

Colorado State University-Pueblo | Pueblo, Co
Bachelor of Social Work (BSW) | 3.6 GPA

Colorado State University-Pueblo | Pueblo, Co
Master of Social Work (MSW) | 3.9 GPA

Receiving Licensed Clinical Supervision
LCSW | present

COMMUNITY INVOLVMENT | VOLUNTEER WORK | INTERNSHIPS

**Celebrate Recovery | Assimilation Coach |
2016 to 2022**

**Gateway to Success | BSW/ MSW Internship
September 2019 to May 2021.**

**Senior Resource Development Agency (SRDA) |
2019, 2022**

**Colorado State Fair | Recovery Safe Zone
Peer Support | August 2022**

**Pueblo Dept. of Health and Environment |
Your Words Have Power Campaign | 2022**



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF \$148,338.77 INTO PROJECT SWAN01 EQUIPMENT PURCHASES STORMWATER

SUMMARY:

This Ordinance budgets and appropriates insurance proceeds in the amount of \$148,338.77 for the replacement of the Stormwater Department's excavator that was damaged beyond repair when it became stuck and submerged in Lake Minnequa while performing routine maintenance operations.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In June 2022, equipment 272-116 sustained major damage in an incident causing the Stormwater Department's excavator to become stuck and submerged in Lake Minnequa which rendered the equipment inoperable for use. Resolution of the City's insurance claim provides for payment by the insurance company for replacement costs.

FINANCIAL IMPLICATIONS:

The Stormwater Department will be responsible for the replacement of equipment 272-116, Stormwater Department's excavator. Insurance proceeds in the amount of \$148,338.77 have already been received by the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Alternatives No. 1 – No action

Should this Ordinance not pass, the Stormwater Department would have to make up the \$148,338.77 received through the insurance settlement to replace the damaged Stormwater Department's excavator.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE BUDGETING AND APPROPRIATING
INSURANCE PROCEEDS IN THE AMOUNT OF \$148,338.77
INTO PROJECT SWAN01 EQUIPMENT PURCHASES
STORMWATER

WHEREAS, in June 2022, equipment 272-116, Stormwater Department's excavator sustained major damage when it became stuck and submerged in Lake Minnetonka rendering it inoperable for use; and,

WHEREAS, the City has received proceeds from the insurance company for the cost to replace the equipment; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project No. SWAN01 Equipment Purchases Stormwater is already established for equipment purchases.

SECTION 2.

Insurance proceeds in the amount of \$148,338.77 shall be budgeted and appropriated into Project SWAN01 Equipment Purchases Stormwater and will be used to replace the damaged Stormwater Department's excavator.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A DEPOSIT AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SKY CREEK HOMES, LTD, LLC., A COLORADO LIMITED LIABILITY COMPANY, RELATED TO THE INSTALLATION AND CONSTRUCTION OF REQUIRED PUBLIC IMPROVEMENTS WITHIN SETTLERS VILLAGE FILING SIX SUBDIVISION AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

SUMMARY:

The Ordinance will approve a deposit agreement with Sky Creek Homes, Ltd., LLC., a Colorado Limited Liability Company ("Sky Creek") which allows it to defer the construction and installation of specified public improvements within the subdivision for up to a year from the date of its first building permit application.

PREVIOUS COUNCIL ACTION:

The Settlers Village Subdivision Filing No. 6 plat was approved by City Council under Ordinance No. 7462 on April 24, 2006.

BACKGROUND:

The developer of the Settlers Village Filing Five Subdivision is required to construct a 368-foot segment of Nolan Trace, a mixed-use collector roadway along the southern boundary of the Settlers Village Filing Six Subdivision under the current Subdivision Improvements Agreement.

If constructed at this time, this segment will not provide any transportation network connectivity until other roadway segments are constructed when adjacent properties are developed. Rather than constructing and maintaining a roadway segment that will not serve any immediate public interest or need, the Public Works Director has agreed to accept a deposit in lieu of installing the improvements at this time in accordance with the terms and conditions outlined in the Subdivision Improvements Agreement.

At the time the road segment is required to facilitate transportation network connectivity or when an appropriate opportunity arises to construct the roadway, the City of Pueblo

will be able to use the deposit to cause the required improvements to be constructed. Alternatively, the developer may also elect to construct the improvements and request a refund of the deposit.

After estimating the value of the remaining unfinished improvements, a total deposit of \$106,241 is required as a guarantee that the required work will be completed.

FINANCIAL IMPLICATIONS:

Sky Creek Homes will provide a deposit of \$106,241 as its guaranty that the required public improvements in the Settlers Village Filing Six Subdivision will be installed.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to approve this agreement will require the developer to construct improvements that are not in the public interest at this time.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Deposit Agreement - Settlers Village Filing 6

ORDINANCE NO. 10309

AN ORDINANCE APPROVING A DEPOSIT AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SKY CREEK HOMES, LTD, LLC., A COLORADO LIMITED LIABILITY COMPANY, RELATED TO THE INSTALLATION AND CONSTRUCTION OF REQUIRED PUBLIC IMPROVEMENTS WITHIN SETTLERS VILLAGE FILING SIX SUBDIVISION AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Deposit Agreement between the City of Pueblo, a Municipal Corporation and Sky Creek Homes, Ltd., LLC., a Colorado Limited Liability Company, a copy of which is attached hereto, having been approved as to form by the City of Pueblo Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the Deposit Agreement in the name of the City of Pueblo, and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

DEPOSIT AGREEMENT

THIS AGREEMENT, made and entered into this 10th day of November, 2022 by and between the CITY OF PUEBLO, a Municipal Corporation, hereinafter referred to as "City", and SKY CREEK HOMES, LTD, LLC a Colorado limited liability company, hereinafter referred to as "Subdivider".

WITNESSETH:

WHEREAS, Subdivider is the owner and/or developer of Block 1, Lots 1-17; Block 2, Lots 1-21; Block 3, Lots 1-9; and Block 4, Lot 1; ("Subdivider's Lots") located within the Settler's Village Filing No. 6 Subdivision, City of Pueblo, Colorado and legally described as set forth in Exhibit "A", which is attached hereto and incorporated herein; and

WHEREAS, Subdivider is required, pursuant to Section 12-4-7(j) of the Code of Ordinances of the City, to construct certain public improvements including those set forth in Exhibit "B", which is attached hereto and incorporated herein; and

WHEREAS, Subdivider's predecessor-in-interest, Horizon Communities, Inc., and City entered into a Subdivision Improvements Agreement dated March 27, 2007 which requires Subdivider to construct and install at its sole cost all required public improvements within a specified timeframe; and

WHEREAS, Paragraph 2 of the Subdivision Improvements Agreement requires that the Subdividers or any subsequent owner of the land or any portion thereof shall deposit cash or other collateral if said improvements are not installed within the specified timeframe; and

WHEREAS, Subdivider agrees that the estimate of the City Director of Public Works to construct and install improvements necessary to satisfy Paragraph 2 of the Subdivision Improvement Agreement with respect to Subdivider's Lots is reasonable; and

WHEREAS, Subdivider agrees to establish a Deposit Account with the City to guarantee payment of the costs of installation and construction of said public improvements according to City's Subdivision Regulations and the Subdivision Improvement Agreement;

NOW THEREFORE, in consideration of the foregoing and mutual covenants contained herein, the City and Subdivider agree as follows:

I. Subdivider agrees:

1. To deposit with the City Director of Finance \$106,241.00 being an amount equal to the estimate of the public improvements necessary to satisfy Paragraph 2 of the Subdivision Improvement Agreement with respect to Subdivider's Lots and the City Subdivision Regulations. Such estimate and improvements are set forth in Exhibit "B", which is attached hereto and incorporated herein. It is agreed that interest, if any, which may accrue on such funds shall be paid to the City as an administrative fee in maintaining and administering this Agreement and such deposit.
2. To install the required public improvements in said Subdivision as described in Exhibit "B".
3. That the funds deposited by Subdivider shall be held by the City in a non-interest-bearing Deposit Account to be established by the Director of Finance who may disburse said funds only as herein provided. The Director of Finance shall release from said Deposit Account and pay out therefrom only such deposited funds as directed in writing by the Director of Public Works. Funds deposited with the Director of Finance may be withdrawn at the discretion of the Director of Public Works upon written request to the Director of Finance.
4. When Subdivider completes all or a portion of the improvements described in Exhibit "B", Subdivider may apply to the City for a partial or full release of the deposited funds and, upon written notice of the City's Director of Public Works to the Director of Finance, the Director of Finance shall release said funds to the Subdivider as directed by the Director of Public Works.
5. In the event that Subdivider fails to install all or any part of the required public improvements described in Exhibit "B" on or before one (1) year from the date of application for the first building permit issued on any of the Subdivider's Lots, the Director of Public Works may, upon written notice to the Director of Finance, withdraw the deposited funds to complete all or any part of the said improvements.

II. City agrees:

6. To have the Director of Public Works or his designee periodically inspect said improvements while under construction and inspect completed improvements within a reasonable time after receiving written notice that the improvement has been completed. The Director of Public Works shall notify Subdivider within 10 days after

inspection of the required public improvements if the same are satisfactorily completed and approved by the City and if so satisfactorily completed and approved, the Director of Public Works shall authorize a partial release and payment of said escrowed funds to be made to Subdivider in an amount determined by the Director of Public Works based on the percentage of improvements completed and approved.

III. City and Subdivider agree:

7. That this Deposit Agreement shall constitute full satisfaction of the covenants set forth in Paragraph 2 of the Subdivision Improvement Agreement with respect to Subdivider's Lots only. Nothing contained herein is intended to be, relied upon or otherwise act as an amendment of the Subdivision Improvement Agreement.

(SIGNATURE PAGE FOLLOWS)

CITY OF PUEBLO

By: _____
Nicholas A. Gradisar, Mayor

Subscribed and sworn to before me this _____ day of _____, 2022.

My commission expires: _____

Notary Public

Approved as to form.

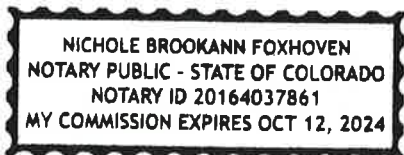
City Attorney

SKY CREEK HOMES, LTD, LLC

By: Brian G. Robinson
BRIAN G. ROBINSON

Subscribed and sworn to before me this 10th day of November 10th, 2022.

My commission expires: 10/12/2024



Nichole Brookann Foxhoven
Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION - SETTLERS VILLAGE, FILING NO. 6

A parcel of land located in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 22, Township 21 South, Range 65 West of the 6th P.M. in the County of Pueblo and State of Colorado and being more particularly described as follows:

Considering the North line of Section 22, Township 21 South, Range 65 West of the 6th P.M. to bear N. $89^{\circ}40'00''$ E., and all bearings contained herein being relative thereto.

Beginning at a point from which the NW corner of said Section 22 bears N. $56^{\circ}24'35''$ W., a distance of 2579.64 feet, said point also being the Southerly most point of Settlers Village, Filing No. 2 according to the recorded plat thereof as filed for record at Reception No. 1494729 in the Pueblo County records; and on the Westerly right-of-way line of Hollywood Drive as presently located in said Settler Village, Filing No. 2; thence Easterly along the Southerly boundary line of said Settlers Village, Filing No. 2, the following two (2) courses:

1. N. $69^{\circ}59'24''$ E., a distance of 479.71 feet;
2. Easterly along the arc of a curve to the left whose radius is 540 feet, a distance of 198.67 feet;

to a point on the Southerly boundary line of Settlers Village, Filing No. 3 according to the recorded plat thereof as filed for record at Reception No. 1572897 in the Pueblo County records; thence along the Southerly boundary line of said Settlers Village, Filing No. 3 the following six (6) courses:

1. S $41^{\circ}05'20''$ E., a distance of 120.00 feet;
2. S. $85^{\circ}14'04''$ E., a distance of 221.57 feet;
3. N. $83^{\circ}18'29''$ E., a distance of 45.24 feet;
4. N. $70^{\circ}00'48''$ E., a distance of 110.01 feet;
5. N. $69^{\circ}20'26''$ E., a distance of 60.00 feet;
6. N. $52^{\circ}10'29''$ E., a distance of 128.85 feet;

thence S. $11^{\circ}56'32''$ E., a distance of 174.15 feet; thence N. $78^{\circ}03'28''$ E., a distance of 6.86 feet; thence S. $03^{\circ}09'25''$ E., a distance of 70.68 feet; thence S. $03^{\circ}31'42''$ W., a distance of 185.70 feet; thence S. $07^{\circ}30'32''$ W., a distance of 263.05 feet; thence S. $07^{\circ}03'15''$ E., a distance of 150.00 feet; thence S. $82^{\circ}56'45''$ W., a distance of 222.59 feet; thence Westerly along the arc of a

curve to the left whose radius is 1960.00 feet; a distance of 145.30 feet; thence N. $11^{\circ}18'06''$ W., a distance of 80.00 feet; thence N. $20^{\circ}00'36''$ W., a distance of 373.52 feet; thence S. $69^{\circ}59'24''$ W., a distance of 640.00 feet; thence N. $20^{\circ}00'36''$ W., a distance of 400.00 feet to the Point of Beginning.

Containing 14.69 acres, more or less

Prepared by: NORTHSTAR ENGINEERING AND SURVEYING, INC.
111 E. 5th Street
Pueblo, Colorado 81003

December 15, 2005

JN 96 105 30

SUBDIVISION IMPROVEMENTS AGREEMENT EXHIBIT "B"

SUBDIVISION NAME: SETTLERS VILLAGE, FILING NO. 6, PHASE 3
JN 9610530

DEVELOPER: SKY CREEK HOMES, LTD.

ENGINEER: NORTHSTAR ENGINEERING AND SURVEYING, INC.

NOLAN TRACE

STREETS

5.5" Asphalt over 11" Base Course	1730 SY @ \$29.75 /SY =	\$51,648
Curb and Gutter	370 LF @ \$12.00 /LF =	\$4,440
Sidewalk	2211 SF @ \$4.00 /SF =	\$8,844
Handicap Ramp (1)	68 SF @ \$4.00 /SF =	\$272
Tactile bands	1 EA @ \$350.00 /EA =	\$350

WATER

16" PVC Water Main	372 LF @ \$47.50 /LF =	\$17,670
8" PVC Water Main	40 LF @ \$47.50 /LF =	\$1,900
Fire Hydrant Assembly	1 EA @ \$3,250 /EA =	\$3,250

SANITARY SEWER

12" PVC Sewer Main	234 LF @ \$38.00 /LF =	\$8,892
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<u>STREET LIGHT</u>	1 EA @ \$1,450.00 /EA =	\$1,450
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<u>MONUMENT BOX</u>	2 EA @ \$655.00 /EA =	\$1310
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SIGNAGE

T-Intersection (80' R-O-W)	1 EA @ \$325.00 /EA =	\$325
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BARRICADES

L=16'	2 EA @ \$940.00 /EA =	\$1,880
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SUBTOTAL	<u>\$102,051</u>
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B-1

SUBDIVISION IMPROVEMENTS AGREEMENT EXHIBIT "B"

SUBDIVISION NAME: **SETTLERS VILLAGE, FILING NO. 6, PHASE 3**
JN 9610530

DEVELOPER: **SKY CREEK HOMES, LTD.**

ENGINEER: **NORTHSTAR ENGINEERING AND SURVEYING, INC.**

EROSION AND SEDIMENT CONTROL

Erosion and Sediment Control	\$4,190
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SUBTOTAL	<u>\$4,190</u>
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TOTAL PHASE 3 PROJECT: \$106,241



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE ESTABLISHING PS-2216, APPROVING A COOPERATION AGREEMENT WITH PUEBLO TRIPLE AIM CORPORATION, AND ACCEPTING, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$8700 TO SAID PROJECT

SUMMARY:

A Cooperation Agreement by and between Pueblo Triple Aim, a Colorado nonprofit corporation, and the City of Pueblo, attached hereto and having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement on behalf of the City, and the City Clerk shall affix the seal of the City thereto and attest same. Project No. PS2216 is hereby established. Funds in the amount of \$8700 shall be accepted from Pueblo Triple Aim and budgeted and appropriated into the said Project to be used solely for the purposes agreed to pursuant to the terms of the Agreement.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Pueblo Fire Department works closely in partnership with other agencies in the community to help citizens navigate healthcare resources. Pueblo Triple Aim Corporation is one such local non-profit community partner with the mission of making Pueblo County the healthiest county in Colorado through community problem solving and cross-sector collaboration. The Directing Others to Services (DOTS) program consists of a trained outreach team that visits individuals who overutilize 911/Emergency Rooms and educates and connects them to resources. This grant allows the DOTS Team to bring in services to DOTS clients' homes, thereby improving their quality of life.

FINANCIAL IMPLICATIONS:

Project No. PS2216 would provide funding for services for DOTS clients.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Cooperation Agreement with Pueblo Triple Aim Corporation

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PS-2216, APPROVING A COOPERATION AGREEMENT WITH PUEBLO TRIPLE AIM CORPORATION, AND ACCEPTING, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$8700 TO SAID PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project PS-2216 is hereby established.

SECTION 2.

A Cooperation Agreement by and between Pueblo Triple Aim, a Colorado nonprofit corporation, and the City of Pueblo, attached hereto and having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

The Mayor is hereby authorized to execute and deliver said Agreement on behalf of the City, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

Funds in the amount of \$8700 shall be accepted from Pueblo Triple Aim and budgeted and appropriated into PS 2216 to be used solely for the purposes agreed to pursuant to the terms of the Agreement.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Cooperation Agreement to implement the policies and procedures described therein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

A COOPERATION AGREEMENT BETWEEN PUEBLO TRIPLE AIM CORPORATION AND THE CITY
OF PUEBLO WITH RESPECT TO THE ROBERT HOAG RAWLINGS FOUNDATION EDUCATING 911
SUPER-UTILIZERS GRANT

This Cooperation Agreement (“Agreement”) is entered into this 10th day of November, 2022 by and between Pueblo Triple Aim Corporation, a Colorado nonprofit corporation (“PTAC”), and Pueblo, a municipal corporation (“City”), with respect to the Robert Hoag Rawlings Foundation Educating 911 Super-Utilizers Project (“Grant Agreement”) awarded by Robert Hoag Rawlings Foundation to PTAC. A copy of the Grant Agreement is attached hereto, labelled Exhibit 1 and incorporated herein. In consideration of the mutual covenants herein contained, the parties agree as follows:

1. Under this Agreement, PTAC will:
 - a. Sign the Grant Agreement from Robert Hoag Rawlings Foundation.
 - b. Abide by all stipulations in the Grant Agreement.
 - c. Remit and pay to the City proceeds under the Grant Agreement in the amount of \$8,700 (“Grant Proceeds”), which amount will be expended by City solely for the purposes of performing services stated in PTAC’s funding application which consist of equipment funding/services through the DOTS program for seniors with unique needs such as hearing impairment and mobility issues to greatly improve outreach capabilities (“Services”).
2. Under this Agreement, the City will:
 - a. Expend the Grant Proceeds in performance of the DOTS program and solely for the purposes and to perform the scope of work set forth in the PTAC’s funding application.
 - b. Abide by all stipulations in the Grant Agreement. It is acknowledged by PTAC that City is a Colorado municipal corporation and that. It is acknowledged by PTAC that (i) City is a Colorado municipal corporation and that the Grant Agreement requirements with respect to and PTAC representations regarding non-profit organizations are inapplicable to City; and (ii) the Grant Agreement requirements with respect PTAC obligations beyond performing the Services are inapplicable to City including but not limited to indemnification.
 - c. Provide any receipts or financial documents needed by Robert Hoag Rawlings Foundation to show funding was used as intended.
 - d. Assist PTAC in filing reports required under the Grant Agreement.

Executed the day and year first above written.

Alexis Ellis, Executive Director
on behalf of Pueblo Triple Aim Corporation

Nicholas A. Gradisar, Mayor
on behalf of the City of Pueblo

ATTEST: _____
City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE AMENDING SECTIONS 7-1-3, 7-3-5, 7-3-42, AND 7-4-4 OF TITLE VII OF CHAPTERS 1, 3 AND 4 OF THE PUEBLO MUNICIPAL CODE RELATING TO LIENS FOR NUISANCES, LITTER, JUNK VEHICLES, WEEDS, AND VACANT PROPERTY REGISTRATION, AND EXPANDING THE REMEDIES TO COLLECT SUCH LIENS TO INCLUDE FORECLOSURE AND ASSIGNMENT

SUMMARY:

This Ordinance amends the sections of the municipal code that provide for collection of nuisance abatement and vacant property liens. It expands the remedies available to the City to include foreclosure and assignment, and provides that any assignee of a City lien may use any of the remedies listed and collect the debt evidenced by the lien in their own name as if it was the City itself collecting.

PREVIOUS COUNCIL ACTION:

On September 14, 2015, Council approved Ordinance No. 8917, which levied interest of ten percent (10%) on unpaid balances and expanded the collection remedies the City may pursue to include all civil remedies and certification to the County Treasurer's tax roll.

On March 26, 2018, Council approved Ordinance No. 9249, which amended the code provisions concerning litter and storage receptacles, and provided new violations thereof and powers of the Municipal Court to impose conditions at sentencing to deter future violations.

On June 11, 2018, Council approved Ordinance No. 9296, which implemented the Mayor-Council form of government and made amendments to Title VII to remove references to the City Manager and replace them with references to the Mayor.

On April 17, 2021, Council approved Ordinance No. 9930 adding Chapter 9 to Title IV of the Pueblo Municipal Code generally referred to as the Vacant Property Registration Ordinance, and providing penalties for violation thereof, and authorizing the City to file

liens for unpaid penalties.

BACKGROUND:

Currently, the City can pursue various civil collection remedies to collect the debt secured by its nuisance abatement and vacant property liens. Expanding the collection remedies available to it to include assignment and foreclosure of the liens will aid the City in increasing its collection rate. Assignment, in particular, is an effective and efficient means of collecting debt secured by liens because it allows the City to sell the lien to a third party, and then that third party may proceed in their discretion and in a manner they deem desirable to collect the debt. Foreclosure is also an effective collection remedy because it would allow the City to foreclose on its liens in court. This process could conclude in the City collecting its debt and costs when an owner or other interested party redeems the property by paying the debt due, or if not redeemed, in the City becoming the new owner of the property at the end of the foreclosure action.

FINANCIAL IMPLICATIONS:

The City's Finance Department oversees the collection of debt due for nuisance abatements and vacant property registration requirements. When the debt due is not paid within a time certain, a lien is recorded to secure the payment of the debt. By expanding collection remedies, the City will likely increase its collection rate resulting in fewer unpaid accounts and more timely collections.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance does not pass it will not be possible for the City to pursue collection of the liens by assignment to a third party.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING SECTIONS 7-1-3, 7-3-5, 7-3-42, AND 7-4-4 OF TITLE VII OF CHAPTERS 1, 3 AND 4 OF THE PUEBLO MUNICIPAL CODE RELATING TO LIENS FOR NUISANCES, LITTER, JUNK VEHICLES, WEEDS, AND VACANT PROPERTY REGISTRATION, AND EXPANDING THE REMEDIES TO COLLECT SUCH LIENS TO INCLUDE FORECLOSURE AND ASSIGNMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Section 3 of Chapter 1 of Title VII of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 7-1-3. - Cost of abatement.

...

(b) In all cases where the Mayor, Fire Chief or Health officer shall incur any expense for abating any nuisance found upon any lot or premises, the expense of such abatement plus twenty-five percent (25%) for incidental costs plus interest at the rate of ten percent (10%) per annum shall be assessed against the lot or premises upon or on account of which such expense was incurred, or from which such nuisance was abated, removed or corrected. A bill for such expense shall be mailed to the owner, occupant, or the person who shall have caused or permitted the condition to exist. The cost of such abatement, removal or correction and such incidental costs, plus interest at the rate of ten percent (10%) per annum, shall be assessed jointly and severally against the owner and occupant of such property, and the person who shall have caused or permitted the condition to exist, if different. The City may pursue all civil collection remedies and recover the amount of such charges together with all collection expenses, including reasonable attorneys' fees and costs. In addition, upon recording in the County Clerk and Recorder's office of a statement under oath of the Mayor showing the cost thereof and describing the property, such assessment shall be and constitute a perpetual lien on the property having priority over all other liens, except general tax liens, and such lien shall remain in full force and effect until such charges and interest have been paid in full. **The City may collect such lien by sale, assignment or foreclosure; and may accept less than the face value of the lien as payment in full. An assignee of such lien may collect such lien in any manner available to the City in their own name subject to all claims and defenses, but may not assess it to the tax roll, and may file a release once satisfied. A fee, not exceeding fifteen percent (15%) of the purchase price of the lien, may be imposed by either the City or a vendor selling the lien on behalf of the City, and if imposed shall be paid by an assignee. As an exclusive remedy for the City, {l}**in case such assessment lien is not paid within six (6) months of recording, the assessment may be certified by the City Clerk to the county treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments. All remedies provided in this Chapter are cumulative.. . .

SECTION 2.

Section 5 of Chapter 3 of Title VII of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 7-3-5. - Unlawful not to remove, charges, lien.

...

(b) If the owner or occupant of such real property is given notice of not less than ten (10) days, and shall fail or refuse to remove all such debris, trash, litter and rubbish from such property and dispose of the same, the Mayor is authorized to cause the abatement and removal of such litter, debris, trash and rubbish from said real property. The cost of such abatement and removal plus twenty-five percent (25%) for incidental costs plus interest at the rate of ten percent (10%) per annum shall be charged against the property or the owner or the occupant of such property. A bill for such expense shall be mailed to the owner or occupant of the property. The cost of such abatement and removal and such incidental costs, plus interest at the rate of ten percent (10%) per annum, shall be assessed jointly and severally against the owner and occupant of such property. The City may pursue all civil collection remedies and recover the amount of such charges together with all collection expenses, including reasonable attorneys' fees and costs. In addition, upon recording a verified statement by the Mayor in the office of the County Clerk and Recorder to show such costs and describing the property, such assessment shall be and constitute a perpetual lien on the property having priority over all other liens except general tax liens and shall remain in full force and effect until such charges and interest have been paid in full. **The City may collect such lien by sale, assignment or foreclosure; and may accept less than the face value of the lien as payment in full. An assignee of such lien may collect such lien in any manner available to the City in their own name subject to all claims and defenses, but may not assess it to the tax roll, and may file a release once satisfied. A fee, not exceeding fifteen percent (15%) of the purchase price of the lien, may be imposed by either the City or a vendor selling the lien on behalf of the City, and if imposed shall be paid by an assignee. As an exclusive remedy for the City, {l}** case such assessment lien is not paid within six (6) months of recording, the assessment may be certified by the City Clerk to the county treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments. All remedies provided in this Chapter are cumulative.

...

SECTION 3.

Section 42 of Chapter 3 of Title VII of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 7-3-42. - Removal procedure; expense.

If the owner or occupant of any premises upon which a junked vehicle exists fails to have such vehicle lawfully disposed of within ten (10) days after the date of said notice, the Mayor is authorized to abate the nuisance by removing and storing said vehicle, by contract or otherwise, in such a manner as he or she may deem in the best interest of the City. The cost of such abatement and removal plus twenty-five percent (25%) for incidental costs plus interest at the rate of ten percent (10%) per annum shall be charged against the property or the owner or the occupant of such property. A bill for such expense shall be mailed to the owner or occupant of the property. The cost of such abatement and removal and such incidental costs, plus interest at the rate of ten percent (10%) per annum, shall be assessed jointly and severally against the owner and occupant of such property. The City may pursue all civil collection remedies and recover the amount of such charges together with all collection expenses, including reasonable attorneys' fees and costs. In addition, upon recording a verified statement by the Mayor in the office of the County Clerk and Recorder to show such costs and describing the property, such assessment shall be and constitute a perpetual lien on the property having priority over all other liens except general tax liens and shall remain in full force and effect until such charges and interest have been paid in full. **The City may collect such lien by sale, assignment or foreclosure; and may accept less than the face value of the lien as payment in full. An assignee of such lien may collect such lien in any manner available**

to the City in their own name subject to all claims and defenses, but may not assess it to the tax roll, and may file a release once satisfied. A fee, not exceeding fifteen percent (15%) of the purchase price of the lien, may be imposed by either the City or a vendor selling the lien on behalf of the City, and if imposed shall be paid by an assignee. As an exclusive remedy for the City, {I}in case such assessment lien is not paid within six (6) months of recording, the assessment may be certified by the City Clerk to the county treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments. All remedies provided in this Chapter are cumulative.

SECTION 4.

Section 4 of Chapter 4 of Title VII of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 7-4-4. - Removal or destruction by City.

The Mayor may abate, cut, cause to be cut or destroyed and remove weeds in excess of ten (10) inches in height from any land within the City if the owner or occupant of said property has failed to abate, cut, destroy or remove said weeds within ten (10) days of service of a notice directing him or her to do so. The cost of such abating, cutting or removal, together with twenty-five percent (25%) thereof, or one hundred dollars (\$100.00), whichever is greater, for administrative and incidental costs, plus interest at the rate of ten percent (10%) per annum, shall be assessed against the property, or the owner or the occupant of such property. A bill for such expense shall be mailed to the owner or occupant of the property. The cost of such abatement and removal and such incidental costs, plus interest at the rate of ten percent (10%) per annum, shall be assessed jointly and severally against the owner and occupant of such property. The City may pursue all civil collection remedies and recover the amount of such charges together with all collection expenses, including reasonable attorneys' fees and costs. In addition, upon recording a verified statement by the Mayor in the office of the County Clerk and Recorder to show such costs and describing the property, such assessment shall be and constitute a perpetual lien on the land having priority over all other liens, except general tax liens, and such lien shall remain in full force and effect until such charges and interest have been paid in full. **The City may collect such lien by sale, assignment or foreclosure; and may accept less than the face value of the lien as payment in full. An assignee of such lien may collect such lien in any manner available to the City in their own name subject to all claims and defenses, but may not assess it to the tax roll, and may file a release once satisfied. A fee, not exceeding fifteen percent (15%) of the purchase price of the lien, may be imposed by either the City or a vendor selling the lien on behalf of the City, and if imposed shall be paid by an assignee. As an exclusive remedy for the City, {I}**in case such assessment lien is not paid within six (6) months of recording, the assessment may be certified by the City Clerk to the county treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments. All remedies provided in this Chapter are cumulative.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Regina Maestri, Councilor

SUBJECT: AN ORDINANCE REQUIRING ABORTION PROVIDERS IN PUEBLO TO COMPLY WITH FEDERAL LAW

SUMMARY:

Attached is an Ordinance requiring abortion providers in Pueblo to comply with federal law.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The attached Ordinance has been prepared by Councilor Regina Maestri.

FINANCIAL IMPLICATIONS:

The financial implications of the attached Ordinance are unknown at this time.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to amend the Pueblo Municipal Code in accordance with this Ordinance.

RECOMMENDATION:

Legal Staff does not recommend approval of this Ordinance.

ATTACHMENTS:

1. Ordinance

ORDINANCE REQUIRING ABORTION PROVIDERS IN PUEBLO,
COLORADO TO COMPLY WITH FEDERAL LAW

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, THAT:

A. FINDINGS AND DECLARATIONS

The City Council finds that:

- (1) Federal law imposes felony criminal liability on every person who ships or receives abortion pills or abortion-related paraphernalia in interstate or foreign commerce, see 18 U.S.C. §§ 1461–62, and all such acts are predicate offenses under the federal Racketeer Influenced and Corrupt Organizations Act (RICO), see 18 U.S.C. § 1961.
- (2) The Constitution and laws of Colorado do not and cannot secure a right, privilege or immunity to act in violation of federal criminal statutes such as 18 U.S.C. §§ 1461–62, or to engage in criminal or racketeering conduct as defined by federal law.
- (3) The so-called “fundamental right” described in section 25-6-403 “to have an abortion and to make decisions about how to exercise that right” does not and cannot encompass conduct that violates federal criminal statutes such as 18 U.S.C. §§ 1461–62.
- (4) The members of the City Council are bound by oath to support and defend the Constitution of the United States, and the statutory provisions codified at 18 U.S.C. §§ 1461–62 are the “supreme Law of the Land” under Article VI of the Constitution and must be obeyed and respected by every person within the city of Pueblo and by every judge in the state of Colorado. See U.S. Const. art. VI (“[T]he Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”).
- (5) We call upon the United States Attorneys for the District of Colorado, both present and future, to investigate and prosecute all abortion providers and abortion-pill distribution networks under 18 U.S.C. §§ 1461–62 and the Racketeer Influenced and Corrupt Organizations Act (RICO).
- (6) We call upon victims of abortion providers and abortion-pill networks to sue these criminal racketeering enterprises under civil RICO.

B. AMENDMENTS TO CITY CODE

Section 1. Title VII of the Pueblo City Code is amended by adding Chapter 9 to read as follows:

CHAPTER 9 - Abortion

Sec. 7-9-1 - Definitions

For the purposes of this chapter, the following definitions shall apply:

(1) "Abortion" means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of an unborn child. The term does not include:

(A) In vitro fertilization or fertility treatments of any type;

(B) The use, prescription, administration, procuring, or selling of Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception; or

(C) An act performed with the purpose to:

(i) Save the life or preserve the health of the unborn child;

(ii) Remove a dead unborn child caused by spontaneous abortion; or

(iii) Remove an ectopic pregnancy, the implantation of a fertilized egg or embryo outside of the uterus.

(2) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(3) "Woman" and "women" include any person whose biological sex is female, including any person with XX chromosomes and any person with a uterus, regardless of any gender identity that the person attempts to assert or claim.

Sec. 7-9-2 - Compliance with Federal Abortion Laws Required

(a) It shall be unlawful for any person to violate 18 U.S.C. § 1461 by using the mails for the mailing, carriage in the mails, or delivery of:

(1) Any article or thing designed, adapted, or intended for producing abortion; or

(2) Any article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion;

(b) It shall be unlawful for any person to violate 18 U.S.C. § 1462 by:

(1) using any express company or other common carrier or interactive computer service for carriage in interstate or foreign commerce of any drug, medicine, article, or thing designed, adapted, or intended for producing abortion;

(2) knowingly taking or receiving, from such express company or other common carrier or interactive computer service, any matter or thing described in subsection (b)(1).

(c) It shall be unlawful for any person to engage in conduct that aids or abets the violations of 18 U.S.C. § 1461 or 18 U.S.C. § 1462 described in subsection (a).

(d) Notwithstanding any other law, the requirements of this section shall be enforced exclusively through the private civil actions described in section 7-9-3. No direct or indirect enforcement of this section may be taken or threatened by the city of Pueblo or any of its employees or agents against any person or entity, by any means whatsoever, and no violation of this section may be used to justify or trigger the enforcement of any other law or any type of adverse consequence under any other law, except as provided in section 7-9-3. This section does not preclude or limit the enforcement of any other law or regulation against conduct that is independently prohibited by such other law or regulation, and that would remain prohibited by such other law or regulation in the absence of this section.

Sec. 7-9-3 - Private Right of Action

(a) Any person, other than the state, its political subdivisions, including the city of Pueblo, and any officer or employee or agent of a state or local governmental entity in this state, has standing to bring and may bring a civil action against any person or entity that:

(1) violates any provision of section 7-9-2(a), section 7-9-2(b), or section 7-9-2(c);
or

(2) intends to violate any provision of section 7-9-2(a), section 7-9-2(b), or section 7-9-2(c).

(b) If a claimant prevails in an action brought under this section, the court shall award:

(1) injunctive relief sufficient to prevent the defendant from violating section 7-9-2;

(2) nominal and compensatory damages if the plaintiff has suffered injury or harm from the defendant's conduct, including but not limited to loss of consortium and emotional distress;

(3) statutory damages in an amount of not less than \$100,000 for each violation of section 7-9-2(a), section 7-9-2(b), or section 7-9-2(c); and

(4) costs and reasonable attorney's fees.

(c) Notwithstanding Subsection (b), a court may not award relief under Subsection (b)(3) or (b)(4) in response to a violation of Subsection (a)(1) if the defendant demonstrates that a court has already ordered the defendant to pay the full amount of statutory damages under Subsection (b)(3) in another action for that particular violation of section 7-9-2.

(d) Notwithstanding any other law, a person may bring an action under this section not later than the sixth anniversary of the date the cause of action accrues.

(e) Notwithstanding any other law, the following are not a defense to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements or provisions of this chapter are unconstitutional or were unconstitutional;

(3) a defendant's reliance on any court decision that has been vacated, reversed, or overruled on appeal or by a subsequent court, even if that court decision had not been vacated, reversed, or overruled when the cause of action accrued;

(4) a defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought;

(5) a defendant's reliance on any federal or state statute, agency rule or action, or treaty that has been repealed, superseded, or declared invalid or unconstitutional, even if that federal or state statute, agency rule or action, or treaty had not been repealed, superseded, or declared invalid or unconstitutional when the cause of action accrued;

(6) non-mutual issue preclusion or non-mutual claim preclusion;

(7) the consent of the plaintiff or the unborn child's mother to the abortion;

(8) contributory or comparative negligence;

(9) assumption of risk;

(10) any claim that the enforcement of this chapter or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by section 7-9-4.

(f) This section may not be construed to impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article II, section 10 of the Colorado Constitution.

(g) Notwithstanding any other law, neither the city of Pueblo, nor any of its officers, employees, or agents, may:

(1) act in concert or participation with anyone who brings suit under this section;

(2) establish or attempt to establish any type of agency or fiduciary relationship with a person who brings suit under this section;

(3) make any attempt to control or influence a person's decision to bring suit under this section or that person's conduct of the litigation; or

(4) intervene in any action brought under this section.

This subsection does not prohibit a person or entity described by this subsection from filing an amicus curiae brief in the action, so long as that person or entity does not act in concert or participation with the plaintiff or plaintiffs who sue under this section or violate any provision of Subsection (g)(1)–(4).

(h) Notwithstanding any other law, a court may not award costs or attorneys' fees to a litigant who is sued under this section.

(i) Notwithstanding any other law, a civil action under this section may not be brought:

(1) against the woman upon whom an abortion was performed or induced or attempted to be performed or induced in violation of this chapter, or against a pregnant woman who intends or seeks to abort her unborn child in violation of this chapter;

(2) against any person or entity that performs, aids or abets, or attempts or intends to perform or aid or abet an abortion at the behest of federal agencies, contractors, or employees that are carrying out duties under federal law, if a prohibition on that abortion would violate the doctrines of preemption or intergovernmental immunity;

(3) against any common carrier that transports a pregnant woman to an abortion provider, if the common carrier is unaware that the woman intends to abort her unborn child; or

(4) by any person who impregnated a woman seeking an abortion through an act of rape, sexual assault, or incest, or by anyone who acts in concert or participation with such a person.

7-9-4 - Affirmative Defenses

(a) A defendant against whom an action is brought under section 7-9-3 may assert an affirmative defense to liability under this section if:

(1) the imposition of civil liability on the defendant will violate rights, privileges, or immunities secured by the Constitution or laws of the United States or by the Constitution or laws of the state of Colorado, that belong to the defendant personally; or

(2) the defendant

(A) has standing to assert the rights, privileges, or immunities of a third party under the tests for third-party standing established by the Supreme Court of the United States or the Supreme Court of Colorado; and

(B) demonstrates that the imposition of civil liability on the defendant will violate rights, privileges, or immunities secured by the Constitution or laws of the United States, or by the Constitution or laws of the state of Colorado, that belong to that third party.

(b) The defendant shall bear the burden of proving the affirmative defense in Subsection (a) by a preponderance of the evidence.

(c) Nothing in this section or chapter shall limit or preclude a defendant from asserting the unconstitutionality of any provision or application of this ordinance as a defense to liability under section 7-9-3, or from asserting any other defense that might be available under any other source of law.

7-9-5 - Severability

(a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the Supreme Court of the United States held that an explicit statement of legislative intent is controlling, it is the intent of the City Council that every provision, section, subsection, sentence, clause,

phrase, or word in this chapter, and every application of the provisions in this chapter to every person, group of persons, or circumstances, are severable from each other.

(b) If any application of any provision in this chapter to any person, group of persons, or circumstances is found by any court to be invalid, preempted, or unconstitutional, for any reason whatsoever, then the remaining applications of that provision to all other persons and circumstances shall be severed and preserved, and shall remain in effect. All constitutionally valid applications of the provisions in this chapter shall be severed from any applications that a court finds to be invalid, preempted, or unconstitutional, because it is the City Council's intent and priority that every single valid application of every provision in this chapter be allowed to stand alone.

(c) The City Council further declares that it would have enacted this chapter, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of the provisions of this chapter, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this chapter were to be declared invalid, preempted, or unconstitutional.

(d) If any provision of this chapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the severability requirements of Subsections (a), (b), and (c).

(e) No court may decline to enforce the severability requirements of Subsections (a), (b), (c), and (d) on the ground that severance would "rewrite" the ordinance or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state or local official from enforcing a statute or ordinance is never rewriting the underlying law or engaging in legislative or lawmaking activity, as the statute or ordinance continues to contain the same words as before the court's decision. A judicial injunction or declaration of unconstitutionality:

(1) is nothing more than an edict prohibiting enforcement that may subsequently be vacated by a later court if that court has a different understanding of the requirements of the Colorado Constitution or United States Constitution;

(2) is not a formal amendment of the language in a statute or ordinance; and

(3) no more rewrites a statute or ordinance than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.

(f) If any court, including any state or federal court, disregards any of the severability requirements in Subsections (a), (b), (c), (d), or (e), and declares or finds any provision of this chapter facially invalid, preempted, or unconstitutional, when there are discrete applications of that provision can be enforced against a person, group of persons, or circumstances without violating federal or state law or the federal or state constitutions, then that provision shall be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate federal or state law or the federal or state constitutions, and every court shall adopt this saving construction of that provision until

the court ruling that pronounced the provision facially invalid, preempted, or unconstitutional is vacated or overruled.

Section 2. Title IX of the Pueblo City Code is amended by adding Chapter 17 to read as follows:

CHAPTER 9-17 - Abortion Clinics

Sec. 9-17-1 - Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section unless in context it appears that a different meaning is intended:

“Abortion” means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of an individual, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of an unborn child. The term does not include:

1. In vitro fertilization or fertility treatments of any type;
2. The use, prescription, administration, procuring, or selling of Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception; or
3. An act performed with the purpose to:
 - (A) Save the life or preserve the health of the unborn child;
 - (B) Remove a dead unborn child caused by spontaneous abortion; or
 - (C) Remove an ectopic pregnancy, the implantation of a fertilized egg or embryo outside of the uterus.

“Abortion clinic” means any building or facility, other than a hospital, where an abortion of any type is performed, or where abortion-inducing drugs are dispensed, distributed, or ingested.

“Hospital” means an institution that is:

1. Primarily engaged in providing, by or under the supervision of physicians, inpatient diagnostic and therapeutic services or rehabilitation services; and
2. Duly licensed for this purpose under the laws of Colorado.

“Interactive computer service” means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

Sec. 9-17-2 - Abortion License—Required.

It is unlawful for any person or business entity to open or operate an abortion clinic within the municipal boundaries of the City without first obtaining a license pursuant to this chapter from the City License Officer or License Officer, as defined by Pueblo Municipal Code Section 9-1-1, or his or her designee.

Sec. 9-17-3 - Abortion License—Application.

Any person or business entity wishing to apply for a license to open or operate an abortion clinic within the City shall file an application with the City License Officer containing the following:

- A. Name. The name of the person or business entity requesting the license.
- B. Address and Phone Number. The mailing address and phone number of the person or business entity requesting the license.
- C. Location. A street address and legal description for the property for which the license is requested.
- D. Map. Attached to the application must be a map showing the location, proposed and existing improvements (such as buildings, fences, etc.), and the relationship of the location to nearby streets, residential housing, public buildings (such as churches, schools, etc.), public utilities, and the like.
- E. Proposed Activity. A brief narrative describing the activities planned at the location, including the types of abortions to be performed.
- F. Compliance Statement. A statement to the effect that the applicant, or its representative if a business entity, is aware of the regulations contained in this chapter that require compliance with federal abortion laws, and that it will comply with those requirements of federal law as set forth in section 9-17-6.

Sec. 9-17-4 - License—Issuance or Refusal.

The City License Officer shall issue a license to the applicant within thirty (30) days of receiving the application unless:

- A. The applicant fails to provide the information and material required by section 9-17-3; or
- B. The City License Officer finds that the proposed activity cannot be accomplished as described without violating the requirements of federal law as set forth in section 9-17-6.

Sec. 9-17-5 - License—Period of validity—Revocation—Appeal.

A. Once issued, a license shall be valid until revoked as provided herein. The City License Officer shall revoke a license if he or she finds that:

- 1. The applicant or licensee, or any of their employees or agents, have violated the requirements of federal law as set forth in section 9-17-6; or

2. The applicant or licensee, or any of their employees or agents, have deviated from the activities and plans presented in the application or are no longer actively pursuing such activities.
- B. If the City License Officer fails to revoke a license as required by this section, then any resident of the City has standing to sue and may sue the City License Officer for a writ of mandamus compelling him or her to comply with the requirements of this chapter.

Sec. 9-17-6 - Compliance with Federal Abortion Laws Required

- A. It shall be unlawful for any person or licensed abortion clinic within the municipal boundaries of the City, or any employee or agent of an abortion clinic licensed by the City, to violate 18 U.S.C. § 1461 by using the mails for the mailing, carriage in the mails, or delivery of:
1. Any article or thing designed, adapted, or intended for producing abortion; or
 2. Any article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion;
- B. It shall be unlawful for any person or licensed abortion clinic within the municipal boundaries of the City, or any employee or agent of an abortion clinic licensed by the City, to violate 18 U.S.C. § 1462 by:
1. Using any express company or other common carrier or interactive computer service for carriage in interstate or foreign commerce of any drug, medicine, article, or thing designed, adapted, or intended for producing abortion; or
 2. Knowingly taking or receiving from such express company or other common carrier or interactive computer service any matter or thing described in subsection (B)(1).
- C. It shall be unlawful for any person or licensed abortion clinic within the municipal boundaries of the City, or any employee or agent of an abortion clinic licensed by the City, to engage in conduct that aids or abets the violations of 18 U.S.C. § 1461 or 18 U.S.C. § 1462 described in subsection (A).

Sec. 9-17-7 - Severability

- A. Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the Supreme Court of the United States held that an explicit statement of legislative intent is controlling, it is the intent of the City Council that every provision, section, subsection, sentence, clause, phrase, or word in this chapter, and every application of the provisions in this chapter to every person, group of persons, or circumstances, are severable from each other.

- B. If any application of any provision in this chapter to any person, group of persons, or circumstances is found by any court to be invalid, preempted, or unconstitutional, for any reason whatsoever, then the remaining applications of that provision to all other persons and circumstances shall be severed and preserved, and shall remain in effect. All constitutionally valid applications of the provisions in this chapter shall be severed from any applications that a court finds to be invalid, preempted, or unconstitutional, because it is the City Council's intent and priority that every single valid application of every provision in this chapter be allowed to stand alone.
- C. The City Council further declares that it would have enacted this chapter, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of the provisions of this chapter, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this chapter were to be declared invalid, preempted, or unconstitutional.
- D. If any provision of this chapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the severability requirements of Subsections (A), (B), and (C).
- E. No court may decline to enforce the severability requirements of Subsections (A), (B), (C), and (D) on the ground that severance would "rewrite" the ordinance or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state or local official from enforcing a statute or ordinance is never rewriting the underlying law or engaging in legislative or lawmaking activity, as the statute or ordinance continues to contain the same words as before the court's decision. A judicial injunction or declaration of unconstitutionality:
1. Is nothing more than an edict prohibiting enforcement that may subsequently be vacated by a later court if that court has a different understanding of the requirements of the Colorado Constitution or United States Constitution;
 2. Is not a formal amendment of the language in a statute or ordinance; and
 3. No more rewrites a statute or ordinance than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.
- F. If any court, including any state or federal court, disregards any of the severability requirements in Subsections (A), (B), (C), (D), or (E), and declares or finds any provision of this chapter facially invalid, preempted, or unconstitutional, when there are discrete applications of that provision can be enforced against a person, group of persons, or circumstances without violating federal or state law or the federal or state constitutions, then that provision shall

be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate federal or state law or the federal or state constitutions, and every court shall adopt this saving construction of that provision until the court ruling that pronounced the provision facially invalid, preempted, or unconstitutional is vacated or overruled.

C. EFFECTIVE DATE

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT OF ADDITIONAL FUNDS IN THE AMOUNT OF ONE MILLION DOLLARS (\$1,000,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES OF CONSTRUCTING SEWER INFRASTRUCTURE, AS AUTHORIZED BY SECTION 603(C)(1)(D) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

SUMMARY:

This Resolution provides additional funding in the amount of \$1 million for upgrading a sanitary main sewer line, as authorized by Section 603(c)(1)(D) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6.

PREVIOUS COUNCIL ACTION:

On September 27, 2021, by Resolution No. 14724, City Council approved the expenditure of \$2 million in ARPA funds to be used to enlarge a sanitary main approximately 6,200 feet in length, going from manhole 415823.4 near 27th Street to the south boundary of the Southern Colorado Clinic annexation plat, which is just north of Spaulding Avenue.

BACKGROUND:

Upgrading the sanitary main sewer line is necessary to accommodate future growth on the westside of the City, including:

- Phase 2 of the YMCA development;
- Phase 2 of the Southern Colorado Clinic development;
- WL proposed annexation;
- Wildhorse proposed annexation;
- Providing wastewater services to the proposed Pueblo County detention facility.

FINANCIAL IMPLICATIONS:

Initially, it was estimated that the ARPA contribution to the construction project would be \$2 million. However, due to rising costs of materials, labor and site conditions of bedrock and groundwater being present, additional ARPA funds are required. In addition, there are two minor arroyo crossings and one major arroyo crossing that will require encasements of the sewer main. The sewer main will be positioned, for its entire length, between 13-35 feet deep, with the majority of the line being installed over 20 feet deep. Depths over 20 feet require engineered trench boxes which escalates the cost of the project. An additional \$1 million in ARPA funding is required to help offset the increased construction costs. The total construction costs estimate (to be paid with both ARPA and Wastewater Enterprise funds) has been revised to \$6.8 million

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to increase the funding for this sewer infrastructure project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15078

A RESOLUTION AUTHORIZING PAYMENT OF ADDITIONAL FUNDS IN THE AMOUNT OF ONE MILLION DOLLARS (\$1,000,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES OF CONSTRUCTING SEWER INFRASTRUCTURE, AS AUTHORIZED BY SECTION 603(C)(1)(D) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council finds and concludes that the sewer infrastructure project approved hereby qualifies for funding under the U.S. Environmental Protection Agency's Clean Water State Revolving Fund.

SECTION 2.

Additional funds in the amount of One Million Dollars (\$1,000,000) are hereby authorized for payment from Project No. CI2113 – American Rescue Plan Act, for purposes of constructing a sanitary main sewer line approximately 6,200 feet in length, going from manhole 415823.4 near 27th Street to the south boundary of the Southern Colorado Clinic annexation plat, which is just north of Spaulding Avenue.

SECTION 3.

Except as supplemented by this Resolution, Resolution No. 14727, dated September 27, 2021, shall be and hereby is ratified and shall remain in full force and effect.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

SECTION 4.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: November 28, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

SUBJECT: A RESOLUTION ACCEPTING A DONATION OF \$10,000 FROM THE COLORADO HEALTH FOUNDATION, TO SUPPORT THE WELLBEING OF PUEBLO FOOD PROJECT STAFF MEMBERS, INTO CONTRIBUTION PROJECT NO. CO2204

SUMMARY:

Attached is a resolution accepting this donation of \$10,000.00 for the Pueblo Food Project.

PREVIOUS COUNCIL ACTION:

City Council previously accepted 4 grants from the Colorado Health Foundation in support of Pueblo Food Project.

BACKGROUND:

The Colorado Health Foundation has been monitoring the increasing strain on the nonprofit sector based on its relationships and connections with grantees. Through insight and feedback into the roles staff juggle on a daily basis, it understands the importance staff wellbeing plays in an organization's ability to advance the important work the organization does in and for community.

This donation from The Colorado Health Foundation to the City of Pueblo's Pueblo Food Project, like similar donations to many other organizations, is intended for activities and programming that will support the mental and physical wellbeing of Pueblo Food Project staff.

FINANCIAL IMPLICATIONS:

This \$10,000.00 donation will be received for the stated purpose without any in-kind match on the part of the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not accept the donation and return the funds.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 11-28-22 Pueblo Food Project CHF Donation - Wellness

RESOLUTION NO. 15079

A RESOLUTION ACCEPTING A DONATION OF \$10,000 FROM THE COLORADO HEALTH FOUNDATION, TO SUPPORT THE WELLBEING OF PUEBLO FOOD PROJECT STAFF MEMBERS, INTO CONTRIBUTION PROJECT NO. CO2204

WHEREAS, a donation was given by The Colorado Health Foundation in the amount of \$10,000.00, intended for activities and programming that will support the mental and physical wellbeing of Pueblo Food Project staff; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes the acceptance of \$10,000.00 from The Colorado Health Foundation to the City of Pueblo - Pueblo Food Project.

SECTION 2.

The funds will be used for activities and programming that will support the mental and physical wellbeing of Pueblo Food Project staff.

SECTION 3.

Funds for this donation will be placed in Contribution Project No. CO2204.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the transactions described herein.

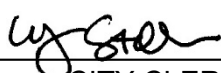
SECTION 5.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: November 28, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Megan Moore <megan@pueblofoodproject.org>

Donation Payment Notification from The Colorado Health Foundation

1 message

ColoradoHealth <do-not-reply@fluxx.io>

Fri, Oct 21, 2022 at 2:14 PM

Reply-To: grants@coloradohealth.org

To: Megan Moore <megan@pueblofoodproject.org>

October 21, 2022

Dear Megan Moore,

We are pleased to release a donation in the amount of \$10,000 to City of Pueblo. The Colorado Health Foundation has been monitoring the increasing strain on the nonprofit sector based on our relationship and connections with grantees. Through insight and feedback into the roles staff juggle on a daily basis, we understand the importance staff well-being plays in your organization's ability to advance the important work you do in and for community. We see how the various drivers of stress paired with increasing demands on staff creates unnecessary challenges to this ever-so-critical work. To that end, the Foundation is offering this wellness donation. These funds are intended for activities and programming that will support the mental and physical well-being of Pueblo Food Project's staff.

For all organizations described in Internal Revenue Service Code sections 501(c)(3) and 509(a)(1), (2), or (3), by endorsing and depositing this check, you warrant that there has been no change in your I.R.S. tax classification. These funds have been sent by a check and mailed to:

[1 City Hall Place](#)
[Pueblo, CO 81003](#)

We wish you success in your work.

Sincerely,

The Colorado Health Foundation





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Larry Atencio, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO COLORADO ARTS & ARTISTS ASSOCIATION IN THE AMOUNT OF \$7,500 TO SPONSOR THE "NO ONE HEARS UNLESS YOU SCREAM" SUICIDE PREVENTION PROJECT

SUMMARY:

Attached for consideration is a request for support of the "No One Hears Unless You Scream" suicide prevention project.

PREVIOUS COUNCIL ACTION:

Council sponsored this program for \$5,000 in 2021.

BACKGROUND:

City Council Member Larry Atencio is requesting \$7,500 to support the "No One Hears Unless You Scream" suicide prevention project. Funding will go toward script development, community staged readings, and full productions. Suicide is a serious public health problem among all age groups. Among youth, it exacts an enormous toll due to the significant years of potential life lost. In 2020, suicide was the second-leading cause of death among those ages 10-24 and 25-34. "...The play is not about blame, but rather how do we identify a teen in need and where do we get them help AND break the stigma of shame. This very difficult, but extremely necessary conversation, has to continue in this unique peer to peer forum, that simply doesn't exist anywhere in our community and in most places across the country," says Roxy Pignanelli. Over the past five years, student casts have performed the play for thousands of students and adults, brining safe messaging about mental health awareness and teen suicide prevention. This will bring the play to broader audiences.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$7,500 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to Colorado Arts & Artists Association.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this association.

RECOMMENDATION:

This Resolution is at the request of Council Member Larry Atencio.

ATTACHMENTS:

1. 2022 Contingencies (Council) - Scream Suicide Prevention
2. 11-28-22 Scream Presentation 2022

RESOLUTION NO. 15080

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO COLORADO ARTS & ARTISTS ASSOCIATION IN THE AMOUNT OF \$7,500 TO SPONSOR THE "NO ONE HEARS UNLESS YOU SCREAM" SUICIDE PREVENTION PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$7,500 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to Colorado Arts & Artists Association to sponsor the suicide prevention project.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

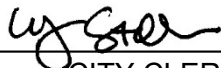
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: November 28, 2022

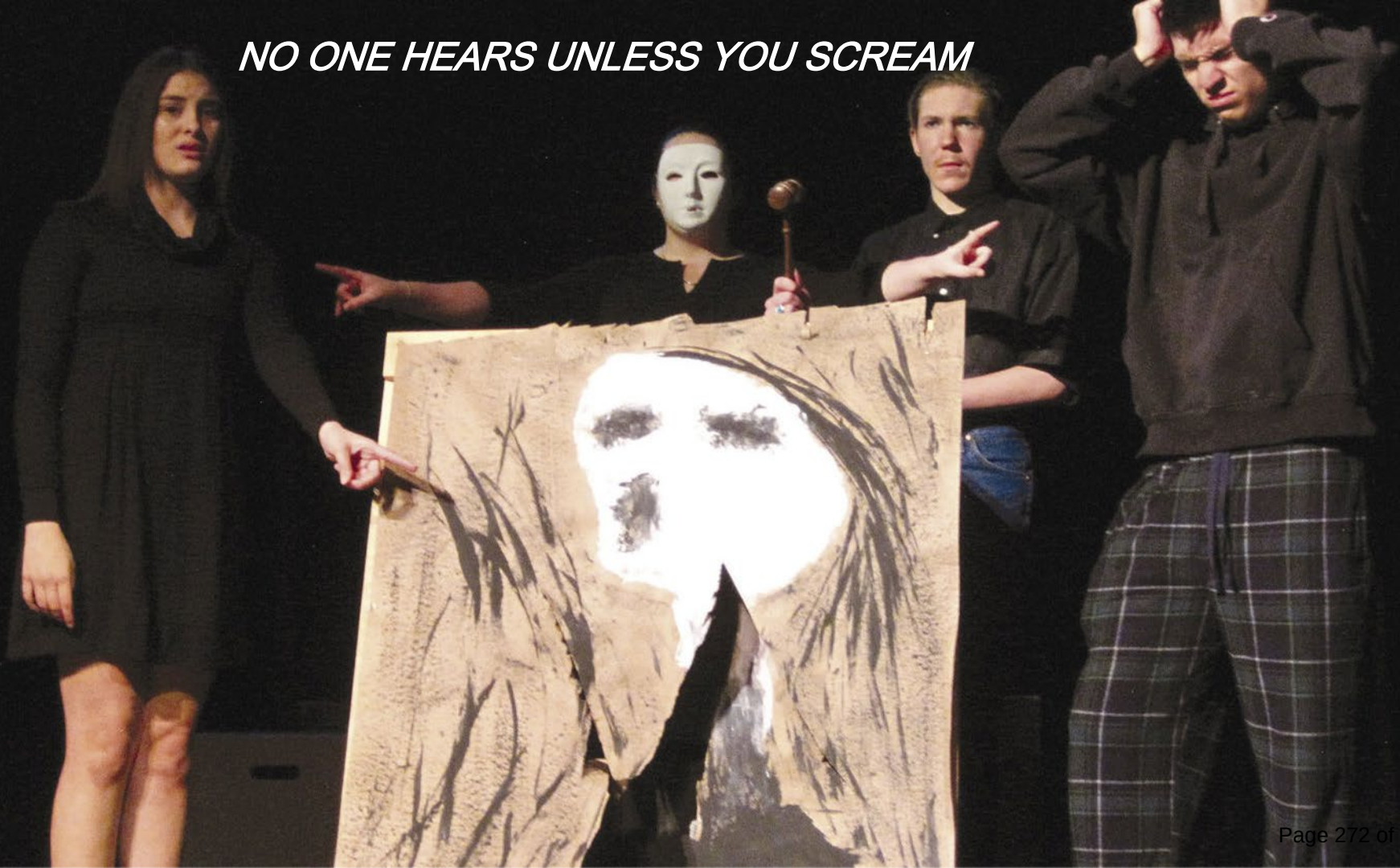
BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT	DEBIT	CREDIT	BALANCE
	Beginning Balance			\$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event	\$ 500.00		\$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance	\$ 750.00		\$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table	\$ 1,350.00		\$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table	\$ 950.00		\$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez	\$ 1,600.00		\$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event	\$ 500.00		\$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall	\$ 5,189.70		\$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table	\$ 1,200.00		\$ 87,960.30
3/28/22	AMR Safety Jam	\$ 1,000.00		\$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip	\$ 500.00		\$ 86,460.30
4/11/22	CSU Pueblo President's Gala	\$ 1,500.00		\$ 84,960.30
4/11/22	Trees Please Dutch Clark Renovation Project	\$ 5,000.00		\$ 79,960.30
5/9/22	Latino Veterans Profiles in Courage Ceremony	\$ 2,000.00		\$ 77,960.30
5/9/22	Parkview Ladies and Lemons Event	\$ 500.00		\$ 77,460.30
5/9/22	Pueblo Downtown Association Levee Walk	\$ 700.00		\$ 76,760.30
5/9/22	Dogpatch Cleanup/Recycling 3RTS Inc.	\$ 500.00		\$ 76,260.30
5/9/22	Goodnight Barn Chuck Wagon Rendezvous	\$ 15,000.00		\$ 61,260.30
5/23/22	Southern Colorado Equality Alliance LGBTQ+ Pride Event	\$ 1,500.00		\$ 59,760.30
5/23/22	Rollin on the Riverwalk HARP Event	\$ 9,000.00		\$ 50,760.30
6/13/22	2022 Leadership Pueblo Project	\$ 300.00		\$ 50,460.30
6/27/22	Pueblo Symphony Season Support	\$ 294.32		\$ 50,165.98
7/25/22	Assistance League Holiday Event	\$ 1,000.00		\$ 49,165.98
7/25/22	United Way / SoCoYoGo App	\$ 2,500.00		\$ 46,665.98
8/22/22	United Way Campaign Kickoff Luncheon Table Sponsor	\$ 500.00		\$ 46,165.98
8/22/22	Pueblo County Courthouse Lighting Ceremony	\$ 500.00		\$ 45,665.98
8/22/22	Ybarra's Boxing Showcase	\$ 1,500.00		\$ 44,165.98
9/12/22	Latino Chamber Lifetime Achievement Award Ceremony Table	\$ 750.00		\$ 43,415.98
9/12/22	Pueblo Chile Balloon Fiesta	\$ 2,500.00		\$ 40,915.98
9/12/22	Song of Pueblo	\$ 3,000.00		\$ 37,915.98
9/12/22	District 60 Education Foundation Cornhole at the Dutch	\$ 1,000.00		\$ 36,915.98
9/26/22	Damon Days Event/Historic Pueblo Inc	\$ 1,000.00		\$ 35,915.98
9/26/22	NAACP Banquet	\$ 700.00		\$ 35,215.98
9/26/22	Scott Richards Scholarship - PCC	\$ 2,000.00		\$ 33,215.98
9/26/22	Scott Richards Broadcast Room Plaque	\$ 26.50		\$ 33,189.48
9/26/22	Parade of Lights - Downtown Association	\$ 1,000.00		\$ 32,189.48
9/26/22	Downtown Association - Holiday Lighting Downtown	\$ 2,832.88		\$ 29,356.60
10/11/22	Parkview event "Mammos & Mimosas"	\$ 350.00		\$ 29,006.60
10/11/22	Pueblo Choral Society Holiday Performance	\$ 5,000.00		\$ 24,006.60
10/11/22	Multicultural Festival	\$ 1,500.00		\$ 22,506.60
10/11/22	Returned to Account via Ordinance 10303		\$15,000.00	\$ 37,506.60
11/14/22	Latino Chamber Festival of Trees	\$ 1,025.00		\$ 36,481.60
11/14/22	Pueblo Soup Kitchen	\$ 10,000.00		\$ 26,481.60
11/14/22	Economic Outlook Forum	\$ 2,500.00		\$ 23,981.60
11/14/22	Wreaths Cross America - Roselawn Cemetery	\$ 3,000.00		\$ 20,981.60
11/14/22	Bessemer Holiday Lighting Project	\$ 1,000.00		\$ 19,981.60
11/28/22	Scream Suicide Prevention Play	\$ 7,500.00		\$ 12,481.60
				\$ 19,981.60
				\$ 19,981.60
				\$ 19,981.60
				\$ 19,981.60

NO ONE HEARS UNLESS YOU SCREAM



WHY DOES THIS MATTER?

Suicide is a serious public health problem among all age groups. Among youth, it exacts an enormous toll due to the significant years of potential life lost.

In 2020, suicide was the [second-leading](#) cause of death among those ages 10-24 and 25-34.

More than a thousand Coloradans each year take their own lives. The state has one of the nation's highest suicide rates, a number that has been rising for decades. More Coloradans between 10 and 44 years old died by their own hand than any other cause except accidents.



THE TRAGIC FACTS



EACH PRODUCTION PROVIDES TABLES OF
RESOURCES FOR AUDIENCE MEMBERS FROM
ALL MENTAL HEALTH INSTITUTIONS

In addition to those who die by suicide, there are many more adolescents who have suicidal thoughts or attempt suicide and survive. Youth suicidal ideation, attempt and completion are [on the rise](#). Results from the [2019 Youth Behavioral Risk Factor Surveillance System](#) show that 18.8% of high school students seriously considered attempting suicide and 8.9% actually attempted suicide. The cost of suicide in the United States in 2019 was estimated to be [\\$926 billion](#) in medical costs, loss of productivity and value of statistical life.

WHO IS AFFECTED?

The teen suicide rate is higher among:

- *Males compared with females. However, females attempt suicide more often than males.*
- *American Indian/Alaska Native adolescents compared with other racial and ethnic groups, by an extreme margin. White adolescents have a higher suicide rate compared with Asian/Pacific Islander, Hispanic and Black adolescents.*
- *Suicide attempts are higher among students who identify as gay, lesbian or bisexual compared with students who identify as heterosexual.*

No One Hears ...Unless You Scream



A Play about TEEN Suicide Prevention



“the play is not about blame, but rather how do we identify a teen in need and where do we get them help AND Break the stigma of shame.

This very difficult, but extremely necessary conversation, has to continue in this unique peer to peer forum, that simply doesn’t exist anywhere in our community and in most places across the country.”

-ROXY PIGNANELLI



History of the Project

Established 2017

Over the past five years, several STUDENT CASTS have performed the play for thousands of students and adults, bringing safe messaging about mental health awareness and teen suicide prevention. CAAA (KENNEDY PUGH) PARTNERED WITH PIGNANELLI AND TAA TO BRING THE PLAY TO BROADER AUDIENCES AND INTO THE PARTNERSHIP WITH THE SUICIDE PREVENTION COALITION OF HEALTH SOLUTIONS.

HOW WE BEGIN AND DEVELOP THE
NEW WORK

*THE LITERARY
PROCESS*

A TYPICAL WORKSHOP FOR NEW
PLAY DEVELOPMENT WILL TAKE
OVER 2 TO 3 WEEKS IN
DRAMATURGICAL WORK,
REWRITES, REHEARSAL AND FINAL
PRESENTATION. THIS WILL
INVOLVE:

15 – 25 Actors

3 DIRECTORS

2 PRODUCERS

6 Technicians

5 teaching artists

5-15 mental health professionals



In an effort to maintain the authentic voice of young people, the literary work of changing the play is an ongoing process to make the text relatable and effective. Students participate in the process as they are the playwrights to bring the work successfully to the stage.



*“Typically, after each production the students in the play sit on the stage and **engage the audience in a “talkback”** to discuss the elements of the play. It is a much-needed time to allow the audience to express how the play affected them and what they feel is “true and authentic” about the work. **The play is only 40 minutes**, but it is a very moving experience exhibiting the struggles young people are experiencing today and unfortunately taking so many young lives.”*

-Taylor Gilman, Director and TAA Academy Drama Instructor



AUDIENCE OUTREACH & IMPACT

“SCREAM” HAS BEEN PERFORMED AT PUEBLO COUNTY HIGH, RYE HIGH, PUEBLO WEST HIGH, PUEBLO WEST HIGH, CSU-PUEBLO, PUEBLO COMMUNITY COLLEGE, FOOD TO POWER/CLEO PARKER ROBINSON FOUNDATION (CSPRINGS), EL PUEBLO MUSEUM and IMPOSSIBLE PLAYHOUSE. DISTRICT 60 & 70 LEADERSHIP AND MANY EDUCATORS, LAW ENFORCEMENT, PROFESSIONALS IN THE LEGAL SYSTEM AND MEDICAL PROFESSIONS ALL AGREE THAT THIS WORK MUST BE DONE AND SEEN BY AS MANY CHILDREN, ADULTS AND FAMILIES AS POSSIBLE. THE TALKBACK

Request for Funding

*COLORADO ARTS AND ARTISTS ASSOCIATES
A COLORADO 5013C*

PROJECT Phases

SCRIPT DEVELOPMENT
COMMUNITY STAGED READING
FULL PRODUCTIONS



Phase I

WORKSHOP FOR NEW SCRIPT DEVELOPMENT 3 WEEKS

Budget Costs: \$2400

***Royalties, printing, technical support, teaching artists fees,
and catering***



Phase II

***NEW PLAY SCRIPT STAGED READING
PRESENTATIONS TO THE COUMMUNITY
3 PRESENTATIONS
3 SEPARATE VENUES***

Budget costs: \$4500

***Production Costs (STAGING, LIGHTING, COSTUMES,
SOUND, REHEARSALS, INSURANCE Transportation,
Crew, and Catering***



Phase III

***FULLY PRODUCED STAGE PRODUCTIONS
4 PRODUCTIONS AS REQUESTED LOCALLY AND, IN
THE REGION,***

Budget Costs: \$8000

***REHEARSALS, REHEARSAL SPACE, TRAVEL,
PRODUCTION COSTS, CATERING, TRAVEL,
ARTISTIC TEAM, MENTAL HEALTH PROFESSIONAL
CONSULTANTS, ADMINISTRATIVE COSTS (PRINTING
ETC.)***

FULLY FUNDED PROJECT

ALL PHASES: \$14,900

PHASE I: \$2400

PHASE II: \$4500

PHASE III: \$8000



WHAT WORKS?

Youth suicide is [preventable](#). Prevention efforts can be aimed at all levels of influence: individual, relationship, community and societal. Suicide rates for at-risk youth can be substantially [reduced by](#):

- [Knowing the signs](#). Four out of 5 suicide deaths are preceded by warning signs such as suicidal threats, previous suicide attempts, depression, preoccupation or obsession with death or making final arrangements. Making it [more difficult](#) to die in an act of deliberate self-harm. Interventions include building barriers on bridges, removing guns from homes with at-risk youth, lethal means counseling and reducing the medication load available.

- Improving access to [mental health resources](#). Examples include medical interventions, support groups, effective clinical care for mental disorders and family and community support.



*2022 American
Mental Health
Inaugural Youth
Award
GIVEN TO THE
Cast of "No One
Hears Unless you
Scream"*

2022 ROBERT HAWKINS MENTAL HEALTH CHAMPION AWARD



THANKS TO OUR SUPPORTERS

District 70

City of Pueblo

Health Solutions

Debbie Houghton

@ Pueblo County High

El Pueblo Museum

Cleo Parker Robinson Foundation

Impossible Players

Pueblo Suicide Prevention Coalition

Pueblo Community College

District 60

County of Pueblo

Greg Keasling

The Arts Academy

Gregory Howell

Food to Power

Heather Pelser

Spark the Change

CSU-Pueblo



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Heather Graham, President

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO CRAZY FAITH STREET MINISTRY IN THE AMOUNT OF \$2,400 TO SPONSOR THE WARMING SHELTER FOR NOVEMBER 11-13, 2022

SUMMARY:

Attached for consideration is a request for support of the Crazy Faith Street Ministry warming shelter.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

City Council Member Heather Graham is requesting \$2,400 to support Crazy Faith Street Ministry in opening its warming shelter for the weekend of November 11-13, 2022.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,400 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to Crazy Faith Street Ministry.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this association.

RECOMMENDATION:

This Resolution is at the request of Council Member Heather Graham.

ATTACHMENTS:

1. 2022 Contingencies (Council) - Crazy Faith Ministry Warming Shelter

RESOLUTION NO. 15081

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO CRAZY FAITH STREET MINISTRY IN THE AMOUNT OF \$2,400 TO SPONSOR THE WARMING SHELTER FOR NOVEMBER 11-13, 2022

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,400 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to Crazy Faith Street Ministry to sponsor the warming shelter for the weekend of November 11-13, 2022.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

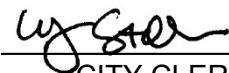
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: November 28, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT	DEBIT	CREDIT	BALANCE
	Beginning Balance			\$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event	\$ 500.00		\$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance	\$ 750.00		\$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table	\$ 1,350.00		\$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table	\$ 950.00		\$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez	\$ 1,600.00		\$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event	\$ 500.00		\$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall	\$ 5,189.70		\$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table	\$ 1,200.00		\$ 87,960.30
3/28/22	AMR Safety Jam	\$ 1,000.00		\$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip	\$ 500.00		\$ 86,460.30
4/11/22	CSU Pueblo President's Gala	\$ 1,500.00		\$ 84,960.30
4/11/22	Trees Please Dutch Clark Renovation Project	\$ 5,000.00		\$ 79,960.30
5/9/22	Latino Veterans Profiles in Courage Ceremony	\$ 2,000.00		\$ 77,960.30
5/9/22	Parkview Ladies and Lemons Event	\$ 500.00		\$ 77,460.30
5/9/22	Pueblo Downtown Association Levee Walk	\$ 700.00		\$ 76,760.30
5/9/22	Dogpatch Cleanup/Recycling 3RTS Inc.	\$ 500.00		\$ 76,260.30
5/9/22	Goodnight Barn Chuck Wagon Rendeuous	\$ 15,000.00		\$ 61,260.30
5/23/22	Southern Colorado Equality Alliance LGBTQ+ Pride Event	\$ 1,500.00		\$ 59,760.30
5/23/22	Rollin on the Riverwalk HARP Event	\$ 9,000.00		\$ 50,760.30
6/13/22	2022 Leadership Pueblo Project	\$ 300.00		\$ 50,460.30
6/27/22	Pueblo Symphony Season Support	\$ 294.32		\$ 50,165.98
7/25/22	Assistance League Holiday Event	\$ 1,000.00		\$ 49,165.98
7/25/22	United Way / SoCoYoGo App	\$ 2,500.00		\$ 46,665.98
8/22/22	United Way Campaign Kickoff Luncheon Table Sponsor	\$ 500.00		\$ 46,165.98
8/22/22	Pueblo County Courthouse Lighting Ceremony	\$ 500.00		\$ 45,665.98
8/22/22	Ybarra's Boxing Showcase	\$ 1,500.00		\$ 44,165.98
9/12/22	Latino Chamber Lifetime Achievement Award Ceremony Table	\$ 750.00		\$ 43,415.98
9/12/22	Pueblo Chile Balloon Fiesta	\$ 2,500.00		\$ 40,915.98
9/12/22	Song of Pueblo	\$ 3,000.00		\$ 37,915.98
9/12/22	District 60 Education Foundation Cornhole at the Dutch	\$ 1,000.00		\$ 36,915.98
9/26/22	Damon Days Event/Historic Pueblo Inc	\$ 1,000.00		\$ 35,915.98
9/26/22	NAACP Banquet	\$ 700.00		\$ 35,215.98
9/26/22	Scott Richards Scholarship - PCC	\$ 2,000.00		\$ 33,215.98
9/26/22	Scott Richards Broadcast Room Plaque	\$ 26.50		\$ 33,189.48
9/26/22	Parade of Lights - Downtown Association	\$ 1,000.00		\$ 32,189.48
9/26/22	Downtown Association - Holiday Lighting Downtown	\$ 2,832.88		\$ 29,356.60
10/11/22	Parkview event "Mammos & Mimosas"	\$ 350.00		\$ 29,006.60
10/11/22	Pueblo Choral Society Holiday Performance	\$ 5,000.00		\$ 24,006.60
10/11/22	Multicultural Festival	\$ 1,500.00		\$ 22,506.60
10/11/22	Returned to Account via Ordinance 10303		\$15,000.00	\$ 37,506.60
11/14/22	Latino Chamber Festival of Trees	\$ 1,025.00		\$ 36,481.60
11/14/22	Pueblo Soup Kitchen	\$ 10,000.00		\$ 26,481.60
11/14/22	Economic Outlook Forum	\$ 2,500.00		\$ 23,981.60
11/14/22	Wreaths Cross America - Roselawn Cemetery	\$ 3,000.00		\$ 20,981.60
11/14/22	Bessemer Holiday Lighting Project	\$ 1,000.00		\$ 19,981.60
11/28/22	Scream Suicide Prevention Play	\$ 7,500.00		\$ 12,481.60
11/28/22	Crazy Faith Ministry Warming Shelter	\$ 2,400.00		\$ 17,581.60
				\$ 17,581.60
				\$ 17,581.60
				\$ 17,581.60



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: November 28, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Larry Atencio, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO CIBC WESTEND ACADEMY IN THE AMOUNT OF \$1,000 TO SPONSOR THE "3RD ANNUAL HAIR LOSS AWARENESS FASHION SHOW" AT 5 PM ON SATURDAY, DECEMBER 10, 2022

SUMMARY:

Attached for consideration is a request for support of the "3rd Annual Hair Loss Awareness Fashion Show" at 5 pm on Saturday, December 10, 2022.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

City Council Member Larry Atencio is requesting \$1,000 to sponsor the "3rd Annual Hair Loss Awareness Fashion Show" at 5 pm on Saturday, December 10, 2022. Hair loss has many possible causes, including genetics, an under active thyroid, cancer and its treatments, medications, and other health conditions. For many people, hair loss or thinning hair can result in a loss of self-esteem and cause depression, anxiety, or other emotional issues. CIBC Westend Academy offers peer counseling and other services for those living with this.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to CIBC Westend Academy.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this association.

RECOMMENDATION:

This Resolution is at the request of Council Member Larry Atencio.

ATTACHMENTS:

1. 2022 Contingencies (Council) - Hair Loss Awareness Fashion Show
2. 11-28-22 Hair loss 2
3. 11-28-22 Hair loss 1

RESOLUTION NO. 15082

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO CIBC WESTEND ACADEMY IN THE AMOUNT OF \$1,000 TO SPONSOR THE "3RD ANNUAL HAIR LOSS AWARENESS FASHION SHOW" AT 5 PM ON SATURDAY, DECEMBER 10, 2022

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to CIBC Westend Academy to sponsor the "3rd Annual Hair Loss Awareness Fashion Show" at 5 pm on Saturday, December 10, 2022.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

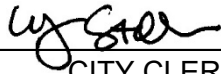
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: November 28, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT	DEBIT	CREDIT	BALANCE
	Beginning Balance			\$ 100,000.00
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11/28/22	Scream Suicide Prevention Play	\$ 7,500.00		\$ 12,481.60
11/28/22	Crazy Faith Ministry Warming Shelter	\$ 2,400.00		\$ 17,581.60
11/28/22	Hair Loss Awareness Fashion Show	\$ 1,000.00		\$ 16,581.60
				\$ 16,581.60
				\$ 16,581.60

3RD ANNUAL
HAIR LOSS AWARENESS
Fashion
SHOW

HAIR LOSS HAS MANY POSSIBLE CAUSES, INCLUDING GENETICS, AN UNDER ACTIVE THYROID, CANCER AND CANCER TREATMENTS, OR MEDICATIONS FOR OTHER HEALTH CONDITIONS.

FOR MANY PEOPLE, HAIR LOSS OR THINNING HAIR CAN RESULT IN A LOSS OF SELF-ESTEEM AND CAUSE DEPRESSION, ANXIETY, AND OTHER EMOTIONAL ISSUES.

WE OFFER PEER COUNSELING OFFERED BY OTHER BREAST CANCER SURVIVORS, AND A FULL MAKEOVER. INCLUDING A FREE WIG, LASHES, NAILS, A GLAMOROUS DRESS, AND SO MUCH MORE.

ON SATURDAY, DEC. 10TH, SURVIVORS WILL SHARE THEIR INSPIRING COURAGEOUS STORIES AS THEY WALK THE RUNWAY DRESSED IN ELEGANT WINTER FASHIONS TO BRING SOME LIGHT TO HAIR LOSS AWARENESS

3RD ANNUAL
HAIR LOSS AWARENESS
Fashion
SHOW

\$150
SPONSORSHIP PACKAGE

TWO VIP TICKETS

**GROUP PHOTOS
AT PHOTO BOOTH**

**FULL PAGE AD IN
PROGRAM GUIDE**

**LOGO ON FLYER
AS A SPONSOR**

AD ON FACEBOOK PAGE

SHOW BUDGET
HAIR \$900
NAILS \$50
DRESS \$900
LASHES \$20
MAKE-UP \$200

HALL RENTAL \$700
DECORATIONS \$700
FOOD \$700
DRINKS \$250
ENTERTAINMENT \$300
SECURITY \$100

Thank you to our Sponsors!



Grillz By Crown
Custom Solid Gold Grillz
Up to 24k Gold, Diamonds available
Customize with fangs diamond cut or diamond dust
410 W Northern Ave, Pueblo, Colorado
719-627-2436
Located inside La La's Wigs Lashes and More



La La's
Wigs Lashes & More
410 W. Northern Ave.
Pueblo Colorado 81004
(719) 627-2408 or (719) 627-2436



**My Friend
the Printer, Inc.**
COPY AND PRINT CENTER

allison.evans31@gmail.com



SATURDAY DECEMBER 10TH
**3RD ANNUAL
HAIR LOSS AWARENESS**
**Fashion
SHOW**
DOORS OPEN AT 5PM / TICKET \$25 / \$50 VIP SEATING
FORMAL EVENT / FOOD WILL BE SERVED
HOSTED BY LA LA'S WIGS LASHES AND MORE
DOORS OPEN AT 5PM
THE RED BARN HALL
3320 ARENA RD, PUEBLO, CO 81005



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE LEVYING AND CERTIFYING THE CITY OF PUEBLO PROPERTY TAX MILL LEVY MADE IN 2022 FOR THE 2023 BUDGET YEAR

SUMMARY:

The attached Ordinance sets the mill levy for the property tax to be assessed and collected for use in the 2023 budget.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

For the purpose of meeting the general operating expenses of the City of Pueblo during the 2023 Fiscal Year this Ordinance will impose a mill levy upon real property located within the City of Pueblo.

FINANCIAL IMPLICATIONS:

The levy is set at 15.633 mills, which is the same as 2022. It is estimated to generate \$18,573,887 in property tax, this amount is net of estimated uncollectible taxes. The assessed value, as provided by the Pueblo County Assessor, is \$1,207,310,633.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10327

AN ORDINANCE LEVYING AND CERTIFYING THE CITY OF
PUEBLO PROPERTY TAX MILL LEVY MADE IN 2022 FOR THE
2023 BUDGET YEAR

WHEREAS, the City of Pueblo's budget for fiscal year 2023 has been prepared and approved, and

WHEREAS, the 2022 net assessed valuation of all taxable property in the City of Pueblo as certified by the Pueblo County Assessor is \$1,207,310,633, and

WHEREAS, the property tax revenue for the fiscal year 2023 is estimated to be \$18,573,887; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

For the purpose of meeting the general operating expenses of the City of Pueblo during the 2023 Fiscal Year, there is hereby made, set and levied a tax of 15.633 mills upon each dollar of the total assessed valuation of all taxable property located within the City of Pueblo on the assessment date.

SECTION 2.

The City Council of the City of Pueblo does hereby certify to the County Commissioners of Pueblo County, Colorado the following mill levy imposed by this Ordinance upon each dollar of the total valuation for assessment of all taxable property located within the City of Pueblo on the assessment date:

Gross Mill Levy	15.633 mills
-----------------	--------------

SECTION 3.

The City Clerk is hereby directed to deliver a certified copy of this Ordinance, together with a Certificate of Tax Levies, form DLG 70, properly completed by the Director of Finance, to the County Commissioners of Pueblo County, Colorado, and the Division of Local Government immediately after passage of this Ordinance.

SECTION 4.

All increases to the City of Pueblo's net fund balance shall constitute and be considered "reserve increases" and therefore a part of the City of Pueblo's 2023 fiscal year spending. All 2023 year-end balances shall constitute and be considered "reserves" and all subsequent expenditures and transfers from such reserves shall be excluded from the City of Pueblo's fiscal year spending within the meaning of Article X, Section 20 (2)(e) of the Colorado Constitution.

SECTION 5.

The officers and the staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE LEVYING AND CERTIFYING THE BANDERA BOULEVARD SPECIAL IMPROVEMENT MAINTENANCE DISTRICT PROPERTY TAX MILL LEVY MADE IN 2022 FOR THE 2023 BUDGET YEAR

SUMMARY:

The attached Ordinance sets the mill levy for the property tax within the Bandera Boulevard Special Improvement Maintenance District to be assessed and collected for use in the 2023 budget.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City Council as the governing body of the Bandera Boulevard Special Improvement Maintenance District, for the purpose of meeting maintenance and reserve expenses of the District, through this Ordinance sets and levies a tax of 5.000 mills upon taxable real property located within the Bandera Boulevard Special Improvement Maintenance District.

FINANCIAL IMPLICATIONS:

By approval of the voters within the District, the levy is fixed at 5.000 mills. The mill levy of 5.000 mills is estimated to generate \$39,805 in property taxes on an assessed valuation of \$7,960,981.

BOARD/COMMISSION RECOMMENDATION:

Approval of this Ordinance.

STAKEHOLDER PROCESS:

The Bandera Boulevard Special Improvement Maintenance District Advisory Committee met in October of 2022 to discuss the 2023 operations and budget of the District. The Advisory Committee recommended the mill levy remain at 5.000 mills with no temporary credit, for 2022 to be collected in 2023.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10328

AN ORDINANCE LEVYING AND CERTIFYING THE BANDERA
BOULEVARD SPECIAL IMPROVEMENT MAINTENANCE
DISTRICT PROPERTY TAX MILL LEVY MADE IN 2022 FOR
THE 2023 BUDGET YEAR

WHEREAS, the Bandera Boulevard Special Improvement Maintenance District's budget for fiscal year 2023 has been prepared and approved; and

WHEREAS, the 2022 net assessed valuation of all taxable property in the Bandera Boulevard Special Improvement Maintenance District as certified by the Pueblo County Assessor is \$7,960,981; and

WHEREAS, the tax revenue for the fiscal year 2023 is estimated to be \$39,805; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City Council Council as the governing body of the Bandera Boulevard Special Improvement Maintenance District, for the purpose of meeting maintenance expenses of the District, does hereby make, set and levy a tax of 5.000 mills upon each dollar of the total assessed valuation of all taxable real property located within the Bandera Boulevard Special Improvement Maintenance District on the assessment date to meet the cost of maintenance and reserve requirements for fiscal year 2023.

SECTION 2.

The City Council of the City of Pueblo does hereby fix and certify to the County Commissioners of Pueblo County, Colorado the following mill levy imposed by this Ordinance upon each dollar of the total valuation for assessment of all taxable real property located within the Bandera Boulevard Special Improvement Maintenance District on the assessment date:

Gross Mill Levy	5.000 mills
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SECTION 3.

The City Clerk Clerk is hereby directed to deliver a certified copy of this Ordinance, together with a Certificate of Tax Levies, form DLG 70, properly completed by the Director of Finance, to the County Commissioners of Pueblo County, Colorado, and the Division of Local Government immediately after passage of this Ordinance.

SECTION 4.

All increases to the District's net fund balance shall constitute and be considered "reserve increases" and therefore a part of the district's 2023 fiscal year spending. All 2023 year-end balances shall constitute and be considered "reserves" and all subsequent expenditures and transfers from such reserves shall be excluded from the District's fiscal year spending within the meaning of Article X, Section 20 (2)(e) of the Colorado Constitution.

SECTION 5.

The officers and the staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE LEVYING AND CERTIFYING THE SOUTHPOINTE
SPECIAL IMPROVEMENT MAINTENANCE DISTRICT PROPERTY TAX
MILL LEVY MADE IN 2022 FOR THE 2023 BUDGET YEAR

SUMMARY:

The attached Ordinance sets the mill levy for property tax within the SouthPointe Special Improvement Maintenance District to be assessed and collected for use in the 2023 budget.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City Council as the governing body of the SouthPointe Special Improvement Maintenance District, for the purpose of meeting maintenance expenses of the District, through this Ordinance sets and levies a tax of 5.000 mills upon taxable real property located within the SouthPointe Special Improvement Maintenance District.

FINANCIAL IMPLICATIONS:

By approval of the voters within the District, the levy is fixed at 5.000 mills. It is estimated to generate \$32,806 in property taxes on an assessed valuation of \$6,561.171.

BOARD/COMMISSION RECOMMENDATION:

Approval of this Ordinance.

STAKEHOLDER PROCESS:

The Southpointe Special Improvement Maintenance District Advisory Committee met in October of 2022 to discuss the 2023 operations and budget of the District. The Advisory Committee recommended the mill levy remain at 5.000 mills for 2022 to be collected in 2023.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10329

AN ORDINANCE LEVYING AND CERTIFYING THE
SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE
DISTRICT PROPERTY TAX MILL LEVY MADE IN 2022 FOR
THE 2023 BUDGET YEAR

WHEREAS, the SouthPointe Special Improvement Maintenance District's budget for fiscal year 2023 has been prepared and approved; and

WHEREAS, the 2022 net assessed valuation of all taxable property in the SouthPointe Special Improvement Maintenance District as certified by the Pueblo County Assessor is \$6,561,171; and

WHEREAS, the property tax revenue for the fiscal year 2023 is estimated to be \$32,806;
NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City Council as the governing body of the SouthPointe Special Improvement Maintenance District, for the purpose of meeting maintenance expenses of the District, does hereby make, set and levy a tax of 5.000 mills upon each dollar of the total assessed valuation of all taxable real property located within the SouthPointe Special Improvement Maintenance District on the assessment date.

SECTION 2.

The City Council of the City of Pueblo does hereby fix and certify to the County Commissioners of Pueblo County, Colorado the following mill levy imposed by this Ordinance upon each dollar of the total valuation for assessment of all taxable real property located within the SouthPointe Special Improvement Maintenance District on the assessment date:

Gross Mill Levy	5.000 mills
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SECTION 3.

The City Clerk is hereby directed to deliver a certified copy of this Ordinance, together with a Certificate of Tax Levies, form DLG 70, properly completed by the Director of Finance, to the County Commissioners of Pueblo County, Colorado, and the Division of Local Government immediately after passage of this Ordinance.

SECTION 4.

All increases to the District's net fund balance shall constitute and be considered "reserve increases" and therefore a part of the district's 2023 fiscal year spending. All 2023 year-end balances shall constitute and be considered "reserves" and all subsequent expenditures and transfers from such reserves shall be excluded from the District's fiscal year spending within the meaning of Article X, Section 20 (2)(e) of the Colorado Constitution.

SECTION 5.

The officers and the staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE AWARDING AN AGREEMENT FOR MEP ENGINEERING SERVICES IN THE AMOUNT OF \$21,664 TO BRIDGERS & PAXTON CONSULTING ENGINEERS, INC., FOR 22-013 PROJECT NO.1, MINERAL PALACE ATRIUM HVAC RENOVATION, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Ordinance awards a task order agreement for MEP engineering services to Bridgers & Paxton Consultant Engineering, Inc., for 22-013 Project No.1 - Mineral Palace Atrium HVAC Renovation.

PREVIOUS COUNCIL ACTION:

Resolution 14923, dated June 27, 2022, approved agreements for professional mechanical, electrical, and plumbing (MEP) engineering service projects between Pueblo, and BCER Engineering, Plant Engineering Consultants and Bridgers & Paxton, for Project No. 22-013 MEP Engineering Consulting Services for City Facilities.

BACKGROUND:

The City requested proposals from qualified engineering firms to assist the City of Pueblo with on-call services for Mechanical, Electrical, and Plumbing (MEP) Engineering services. Three on-call master contracts were awarded to the following firms: BCER Engineering, Plant Engineering Consultants and Bridgers & Paxton.

The current project, Mineral Palace Atrium HVAC Renovation, is the first project under these master agreements and includes conducting a comprehensive evaluation of the existing Mineral Palace Atrium HVAC system at 1605 N. Santa Fe, to include but not limited to the mechanical, plumbing and electrical.

All three MEP engineering firms were invited to submit a proposal for the project, including a project understanding, schedule and fee. The proposal of Bridgers & Paxton was determined to be the most advantageous to the City of Pueblo.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$21,664.00 will be paid from account CI2113, ARPA Revenue Replacement funds for the Greenhouse renovation project.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Ordinance will cancel the project.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 22-013 Bridgers and Paxton - Agreement for HVAC at Mineral Palace Atrium

ORDINANCE NO. 10330

AN ORDINANCE AWARDING AN AGREEMENT FOR MEP ENGINEERING SERVICES IN THE AMOUNT OF \$21,664 TO BRIDGERS & PAXTON CONSULTING ENGINEERS, INC., FOR 22-013 PROJECT NO.1, MINERAL PALACE ATRIUM HVAC RENOVATION, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, pursuant to the approved Agreements for MEP Engineering Consulting Services, proposals for Project No. 22-013, Mineral Palace Atrium HVAC Renovation have been requested, received and examined; and

WHEREAS, the proposal of Brigers & Paxton Consulting Engineers, Inc., of Colorado Springs, Colorado was determined to be the most advantageous to the City, and in the best interest of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Agreement for Professional Mechanical, Electrical, Plumbing (MEP) Engineering Services ("Professional Services Agreement"), a copy of which is attached hereto and made part hereof by reference, by and between City of Pueblo, a Municipal Corporation, and Bridgers & Paxton Consulting Engineers, Inc., a Colorado Corporation, to provide MEP engineering design services for the Mineral Palace Atrium HVAC Renovation, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Funding in the amount of \$21,664.00 will be paid from account CI2113, ARPA Revenue Replacement funds for the Greenhouse renovation project.

SECTION 3.

The Mayor is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 5.

This Ordinance shall become effective immediately upon passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

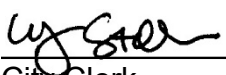
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

**PROPOSED AGREEMENT FOR
PROFESSIONAL MECHANICAL, ELECTRICAL, PLUMBING (MEP) ENGINEERING
SERVICES BY AND BETWEEN CITY OF PUEBLO
AND BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.**

THIS AGREEMENT made and entered this ____ day of November, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner" or "City") and Bridgers & Paxton Consulting Engineers, Inc., a registered Colorado corporation, a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional planning, design, engineering and related services for Owner in connection with Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities – Design of HVAC for Mineral Palace Atrium, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Engineer shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

- ☐ - Study and Report Phase
- ☒ - Preliminary Design (Schematic) Phase
- ☒ - Final Design Phase
- ☒ - Construction Documents & Bidding Phase
- ☒ - Construction Phase

Upon completion of any phase, Engineer shall not proceed with work on the next phase, if any, until authorized in writing by Owner to proceed therewith.

Such services shall include all usual and customary professional engineering services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical, plumbing, environmental, and planning services. Engineer shall also provide any landscape engineering, surveying, and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Engineer shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services.

1.3 Professional engineering services (whether furnished directly or through a professional consultant subcontract) shall be performed under the direction and supervision of a registered engineer in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered engineer.

1.4 Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5 Any architect services provided under this Agreement shall be performed under the direction and supervision of an architect licensed to practice architecture in the state of Colorado.

SECTION 2. ENGINEERING SERVICES

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner to determine his requirements for the Project and review available data.

(b) Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.

(c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

(d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.

(e) Provide general economic analysis of Owner's requirements applicable to various alternatives.

(f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Engineer's findings and recommendations with opinions of probable costs.

(g) Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design (Schematic) Phase. If Engineer is to provide professional services with respect to the Project during the Preliminary Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.

(b) Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.

(c) Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.

(d) Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.

(e) Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.

(f) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent, and character of the work to be performed by contractors, and Specifications describing

such work and the requirement therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Engineer **shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR ' 36 Standards.**

(b) Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Engineer's best professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

(e) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Construction Documents & Bidding Phase. If Engineer is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Engineer shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.

(b) After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, Drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any Addenda which may be required or appropriate to correct errors, clarify Drawings or Specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

(d) Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Engineer's advice.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contractor for construction of the Project, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Perform all duties and functions to be performed by Engineer under the terms of the construction contract.

(b) Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

(d) Promptly advise the Owner in writing of any omissions, substitutions, defects, or deficiencies noted in the work of any contractor, subcontractor, supplier, or vendor on the Project.

(e) Reject any work on the Project that does not conform to the contract documents.

(f) On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.

(g) Review shop drawings, samples, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.

(h) Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has inspected the Project and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.

(k) On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.

(l) The Engineer shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of the Owner or Contractor, the Engineer shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work on the Project. The interpretations and decisions of the Engineer shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Architect and Contractor.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval

or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Engineer's negligent act or omission; except that Engineer hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Engineer's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Engineer's employees.

(e) Engineer acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Consequently, Engineer represents that Engineer has selected and intends to employ or assign the key personnel and consultants identified in Schedule 3 - "Identification of Personnel, Subcontractors, and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner shall have the right to object in writing to employment on the Project of any such key person, consultant, or assignment of principal responsibility, in which case Engineer will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Engineer shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

Within five (5) days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Engineer will not be responsible for delays beyond his control.

(g) Before undertaking any work which Engineer considers beyond or in addition to the scope of work and services which Engineer has contractually agreed to perform under the terms of this Agreement, Engineer shall advise Owner in writing (i) that Engineer considers the work beyond the scope of this Agreement, (ii) the reasons the Engineer believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Engineer shall not proceed with such out of scope or additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Engineer shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information

and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Engineer with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(f) Upon advice of the necessity to do so from Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of 45 days shall be presumed reasonable for Owner to act with respect to any matter involving policy or significant financial impact.

SECTION 4. TIME FOR PERFORMANCE

Engineer's obligation to render services shall continue for such period of time as may reasonably be required for completion of the work contemplated in Schedule 1 – "Scope of Services" and Section 1 of this Agreement.

SECTION 5. PAYMENT

5.1 Owner will pay to Engineer as full compensation for all services required to be performed by Engineer under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed \$21,664.00 in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Exhibit B as to each phase of work indicated in Section 1.1 of this Agreement, the maximum amount of compensation for any phase shall not exceed the amount specified in Schedule 2 for such phase.

5.2 Engineer shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been performed and expenses incurred. Thereafter, Owner shall pay Engineer for the amount of the application within 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

5.5 No compensation shall be paid to Engineer for services required and expenditures incurred in correcting Engineer's mistakes or negligence.

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Paragraph 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Engineer's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Engineer and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Engineer may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Engineer, Engineer shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Engineer or Client. In no event shall payment to Engineer upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

6.3 In the event termination of this Agreement or Engineer's services is for breach of this Agreement by Engineer, or for other fault of Engineer including but not limited to any failure to timely proceed with work, or to pay its employees and Engineers, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Engineer's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 (a) Ownership of Documents. All designs, Drawings, Specifications, technical data, and other documents or instruments procured or produced by the Engineer in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Engineer, Owner shall hold harmless and indemnify Engineer from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

(b) Advertising. Unless specifically approved in advance in writing by Owner, Engineer shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Engineer's employees. If Engineer wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.2 Insurance and Indemnity.

(a) Engineer agrees that he has procured and will maintain during the term of this Agreement, such insurance as will protect him from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any of his employees or of any person other than his employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (b).

(b) The minimum insurance coverage which Engineer shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the Client.

(ii) Commercial General Liability Insurance. The Consultant shall secure and maintain during the period of this agreement/contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the Consultant with respect to all work performed by him and all his subcontractors under the agreement/ contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than \$1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and \$1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Consultant under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(iii) Professional Liability Insurance with coverage of not less than \$1,000,000 in a form and with a deductible acceptable to owner.

(iv) Comprehensive Automobile Liability Insurance. The Consultant shall procure and maintain during the period of the agreement/contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than \$350,000 and for any injury to two or more persons in any single occurrence of not less than \$1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Consultant from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes and similar equipment whether owned, leased, hired or used by Consultant.

(c) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, his employees, subcontractors, and consultants.

7.3 Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either the Owner or the Engineer by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the Owner, City of Pueblo, Department of Public Works, Attn: Andrew Hayes, Director, 211 E. D Street, Pueblo, CO 81003 or to the Architect at Bridgers & Paxton Consulting Engineers, Inc., Attn: Steve Taylor, Vice President, 1365 Garden of the Gods Rd., Suite 260, Colorado Springs, CO 80907. Either party may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

7.4 Entire Agreement. This instrument contains the entire agreement between the Owner and the Engineer respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Engineer in relation thereto not expressly set forth in this instrument is null and void. In the event of any conflict between any provision of this Agreement and a provision of any Schedule or attachment to this Agreement, the provision in this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Engineer may be assigned by him without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

7.6 Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representative of Engineer and by Owner's Director of Public Works.

7.7 Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado.

7.8 Equal Employment Opportunity. In connection with the performance of this Agreement, Engineer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, or age. Engineer shall endeavor to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, or age.

7.9 Severability. If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.10 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if construction is phased and subject to annual appropriation, funds only in the amount of initial appropriation are available and Engineer shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

7.11 Additional Requirements on Federally Funded Contracts. If any of the work to be performed by Engineer under this Agreement is funded in whole or in part with federal funds, then this Agreement shall be construed to include all applicable terms required by the federal assistance agreement and integrated federal regulations. By executing this Agreement, Engineer agrees to be bound by all such mandatory federal requirements, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.12 Access to Property Not Under Owner's Control. Engineer acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Engineer and Engineer's employees and consultants shall, at Engineer's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Engineer in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Engineer understands and agrees that entry to properties not under Owner's control may require Engineer to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Engineer and Owner arising from or relating to this Agreement or Engineer's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

8.2 Pending resolution of any dispute or disagreement, or judicial review, Engineer shall proceed diligently with performance of his work under this Agreement.

SECTION 9. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:

Schedule 1 – "Scope of Services" consisting of 5 pages.

Schedule 2 – "Fee Schedule" consisting of 1 page.

Schedule 3 – "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 5 pages.

SECTION 10. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Engineer therefore, will use his or her best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 11. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986.

Engineer certifies that it has complied with the United States Immigration Reform and Control Act of 1986. Engineer represents and warrants that to the extent required by said Act, all persons employed by Engineer for performance of this contract have completed and signed Form I-9 verifying their identities and authorization for employment.

SECTION 12. PERA LIABILITY

The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Engineer shall submit the Colorado PERA Questionnaire at time of award and the completed form shall become part of the signed Agreement.

SECTION 13. ELECTRONIC SIGNATURE

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

BRIDGERS & PAXTON CONSULTING
ENGINEERS, INC.

By _____
Naomi Hedden, Director of Purchasing

By _____
Steve M. Taylor, Vice President

Attest: _____
Marisa Stoller, City Clerk

[S E A L]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Alexandria Romero, Finance Director

APPROVED AS TO FORM:

Dan Kogovsek, City Attorney

Attachments: Schedule 1 Scope of Services
 Schedule 2 Fee Schedule
 Schedule 3 Identification of Personnel, Subcontractors, and Task Responsibilities
 Additional Information

SCHEDULE 1

SCOPE OF SERVICES

Excerpt from Consultant Project Specific Scope of Work dated October 18, 2022, pages 2 - 3

SCOPE OF OUR WORK

In preparing our scope of work and compensation we have assumed the following:

1. Electrical/Special Systems

- Conduct a site investigation of existing facility and review all record documents pertaining to the electrical systems within the existing facility.
- Provide demolition drawings.
- Provide specifications and design of power connections to new HVAC equipment.
- Provide a cost estimate for equipment and installation.
- Assist selected contractor who will prepare a list of required submittals (submittal register) for construction.

2. Mechanical/Plumbing Systems

- Conduct a site investigation of existing facility and review all record documents pertaining to the mechanical systems infrastructure within the existing facility.
- Conduct cooling load calculations to confirm sizing of new equipment.
- Conduct heating load calculations to confirm sizing of new equipment.
- Conduct ventilation calculations for code required fresh air.
- Provide demolition drawings.
- Provide condensate drain design per IPC codes.
- Provide specifications and design of new HVAC systems including but not limited to ductwork, air devices, and thermostat controls.
- Provide an opinion of probable construction cost for equipment and installation.
- Assist selected contractor who will provide a list of required submittals (submittal register) for construction.

ROLES & RESPONSIBILITIES (B&P TEAM)

- The Engineer will manage the design team and offer coordination reviews for multiple disciplinary attendance. The Engineer will also champion these plans through the permitting process. As necessary, we will accommodate any permit review comments from the Authorities Having Jurisdiction.
- The Engineer will adhere to the design schedule as outlined by the Owner.
- A design kick-off meeting with the Owner is to be performed to provide clear scope definition and coordination of specialty space design requirements within 10 days from notice to proceed.
- The Owner shall provide B&P with complete information concerning project requirements for our work and shall furnish as applicable:
 - Criteria, constraints, and definitions applicable to this project.
 - A list of codes, including edition dates and local ordinances, supplements, and revisions applicable to this project.
 - Design and construction standards which we are to follow in the preparation of construction documents.
 - Inform us of special requirements of the project which will affect our work.
 - All relevant pdf and CAD drawings available for the building.

- It is anticipated that one design review meeting during each design phase (two (2) total) will be held virtually with Mechanical leads in attendance.
- Construction documents will be prepared in AutoCAD or Revit. Floor plan shall be provided to Engineer in AutoCAD format.

CONSTRUCTION ADMINISTRATION

- Site visits will be provided during construction and a final punchlist at substantial completion. It is anticipated that no more than two (2) OAC and/or site visits will be required, with one (1) mechanical representative at each site visit.
- Attendance at pre-bid meeting at site (one representative).
- Shop drawing and submittal review.
- Response to construction request for Information, RFI's.
- Review of change orders.
- Preparation of as-built drawings based on contractor redlines.

EXCLUSIONS

- Permitting fees.
- Architectural services.
- LEED certification and submission.
- Commissioning services.
- Replacement of plumbing system components.
- Design of any mass notification systems.

- I. Included in Basic Engineering Services are the following:
 - A. Preparation of Documents and Construction Administration
 - 1. Preparation of MEP Construction Documents including drawings and specifications for the building HVAC systems, control diagrams and sequences of operation, power, and special systems infrastructure.
 - 2. Control system design will include schematic control diagrams, sequence of operations,
 - 3. Division 23, 26, and 28 specifications, and coordination with Owner for FMS interface with the existing city FMS.
 - 4. Opinions of probable construction cost at initial submission.
 - 5. Construction administration services include, shop drawing review, RFI responses and site visits as outlined on the fee proposal, including a final site visit with final punchlist.
 - 6. As built drawings based on contractor mark-ups if required.
 - 7. Review of MEP record drawings and project closeout documents prepared by the Contractor, including test and balance reports and O&M manuals.
 - II. Not anticipated as being required and therefore not included in our Basic Services proposal are the following:
 - A. Detailed fire protection system design (head layout).
 - B. Fire alarm system design.
 - C. Plumbing system design (except as related to replacement of mechanical equipment).
 - D. Telecommunications and Special Systems Design.
 - E. Design of building interior, on-site area, and landscape lighting.
 - F. Site survey with all appropriate topographical information including location and identification of all surface and sub-surface utilities structures and distribution systems.
 - G. Extensive field investigations to determine the accuracy and correctness of the provided Record Drawings.
 - H. Extensive representation on site or commissioning of MEP systems. Commissioning might include but not be limited to the following: Detailed systems operation verification; point-by-point control/wiring systems checkout; verification of compliance with design criteria; assisting Owner and Contractor in critical path start-up; assisting User with performance verification; proactive conflict resolution; and maintenance staff training.
 - I. Computerized energy analysis and/or life cycle cost studies or system alternatives.
-

- J. Electrical coordination studies based on equipment supplied by Contractor.
 - K. Design of on-site electric utility infrastructure system improvements.
 - L. Design and analysis of site drainage or landscape irrigation system.
 - M. LPG System: The design and installation of the LPG system on site is the responsibility of the LPG supplier contracted by the owner and not of the design team. Any reference to the LPG system on site is for reference purposes only and does not infer we are directing the design and installation of the system. Our scope of work is limited to the point of connection to the building entrance and the piping system within the building. It is the responsibility of the LPG supplier to acquire all required permits and construction inspections by the Authority Having Jurisdiction (AHJ) for the installation of the system outside the building.
 - N. Structural Engineering design and/or details associated with the support of mechanical, electrical and plumbing systems (for example, light pole supports, concrete housekeeping pads, support structures for cooling towers or other ground mounted equipment, seismic support for piping, conduit and equipment, or other supports not specifically listed but needed for installation or code compliance.
 - O. Design of and/or coordination or cooperation with any asbestos or hazardous waste related activities.
 - P. Preparation of reports or studies for additional work typically included as "Additional Services" in the standard AIA Agreement between Architect and Consultants.
 - Q. Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to drawings, specifications, and other documents resulting therefrom.
 - R. Services associated with LEED documentation.
-

SCHEDULE 2
FEE SCHEDULE

Preliminary Design (Schematic) Phase	\$5,308.00
Final Design Phase	\$8,846.00
Construction Documents & Bidding Phase	\$3,538.00
Construction Phase	\$3,972.00
Grand Total	\$21,664.00

PROFESSIONAL FEE SCHEDULE OF HOURLY RATES
MECHANICAL/ELECTRICAL/PLUMBING/TECHNOLOGY/CONTROLS
October 1, 2022 – September 30, 2023

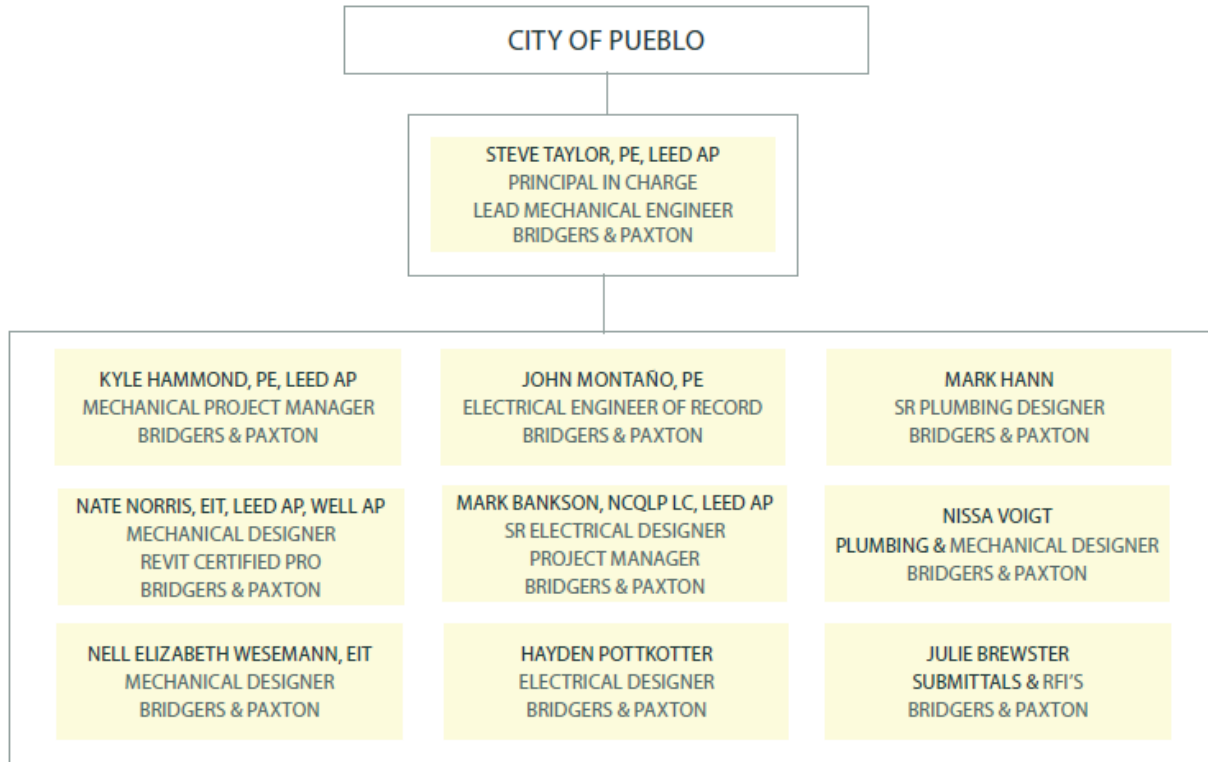
PRINCIPAL	\$215.00
PROJECT MANAGER	\$186.00
SENIOR ENGINEER	\$170.00
PROJECT ENGINEER	\$148.00
ENGINEER	\$125.00
ENGINEER INTERN	\$105.00
SENIOR DESIGNER	\$152.00
PROJECT DESIGNER	\$115.00
DESIGNER	\$ 96.00
BIM SERVICES	\$120.00
CADD TECH	\$ 85.00
ESTIMATING/CONSTRUCTION SERVICES	\$142.00

SCHEDULE 3

IDENTIFICATION OF PERSONNEL, SUBCONTRACTORS, AND TASK RESPONSIBILITY

Excerpt from Bidders Response to RFP dated June 8, 2022, pages 14-18

ORGANIZATIONAL CHART



STEVE TAYLOR, PE, LEED AP BD+C

PRINCIPAL IN CHARGE | LEAD MECHANICAL ENGINEER | BRIDGERS & PAXTON

Registrations: Professional Engineer CO #046750, AZ, WY
LEED Accredited Professional
Education: Bachelor of Science, Architectural Engineering, Kansas State University
Affiliations: ASHRAE



Steve Taylor is a Principal and Office Leader for B&P's Colorado Springs regional office. His project experience includes project management and mechanical engineering design for health-care, commercial, industrial, and educational facilities. Steve's design experience includes facility

assessment studies, pre-design investigation, heating and cooling load calculations, traditional HVAC system design, energy efficient HVAC, VRF systems, medical and laboratory gas, process piping, heat recovery systems, central plant, Divisions 21, 22 & 23 specification editing, EMCS, sequence of operation editing, LEED documentation and submission, and IECC compliance verification. Steve has completed energy simulations and life cycle cost analysis for both LEED and non-LEED buildings. Steve has extensive project management experience for large scale buildings and is authorized to stamp Mechanical and HVAC drawings.

RELEVANT EXPERIENCE

City of Pueblo On-Call Mechanical Engineering Services for Facilities
Pueblo, CO
Pueblo West Metro On-Call MEP Engineering Services
Pueblo West, CO
CSU-Pueblo Technology Building HVAC Upgrade
Pueblo, CO
CSU-Pueblo Technology Building Renovation Design Build
Pueblo, CO
CDOT On-Call MEP Engineering Services
State of Colorado
Pueblo District 60 Two New Schools (Design)
Pueblo, CO
Pueblo Community College Fremont Nursing & Science Renovation
Pueblo, CO
Pueblo SRDA Senior Resource Development
Pueblo, CO
Swallows Charter Academy Gym, Kitchen
Pueblo West, CO
Adams State University Richardson Hall Renovation
Alamosa, CO
City of Aurora New Fire Station #16
Aurora, CO
City of Aurora New Fire Station #15
Aurora, CO
City of Colorado Springs Airport Modernization & Fire Renovation
Colorado Springs, CO
Widefield Water & Sanitation District Admin Building
Widefield, CO
City of Castle Pines New City Hall
Castle Pines, CO
Colorado State University (CSU) Pueblo Natatorium HVAC Assessment
Pueblo, CO
Pueblo D60 Facility Planning and Assessment
Pueblo, CO
City of Aurora Fire Station Assessments
Aurora, CO

KYLE HAMMOND, PE, LEED AP BD+C
MECHANICAL ENGINEER | PROJECT MANAGER | BRIDGERS & PAXTON

Registrations: Professional Engineer CO #051803
Education: Bachelor of Science, Architectural Engineering, Kansas State University
Affiliations: ASHRAE



Kyle Hammond is a Mechanical Engineer for the Colorado Springs regional office. His project experience includes mechanical engineering design for K-12, university projects, religious buildings, military buildings, hotels, offices, parking garages, high-end residences, recreation centers and natatoriums. Kyle's design experience includes heating/chilled water (air and water-cooled chillers), AHU, RTU, ERV, VRF (heat pump & heat recovery), ground-source heat pump, radiant floor, infrared radiant heaters, snowmelt, dust collection, commercial kitchen, heat trace; and full plumbing system design; Divisions 21, 22 & 23 specification editing, sequence of operation editing, and LEED

RELEVANT EXPERIENCE

- City of Pueblo On-Call Mechanical Engineering Services for Facilities
Pueblo, CO
- Pueblo District 60 2 New High Schools, 2 New Elementary Schools
Pueblo, CO
- Pueblo County DSS Judicial HVAC Replacement
Pueblo, CO (prior firm)
- COS District 11 Boiler Replacement Designs and Construction Administration Mann Middle School, Colorado Springs, CO
- COS District 11 Boiler Replacement Designs and Construction Administration Mann Middle School, Colorado Springs, CO
- COS District 11 Jackson Elementary School Boiler HVAC Upgrade
Colorado Springs, CO
- COS District 11 Mitchell High HVAC Replacement Design
Colorado Springs, CO
- Cobham CRAC and Test Lab HVAC Assessment
Colorado Springs, CO
- City of Colorado Springs Airport Chiller/Cooling Tower Replacement (prior firm)
Colorado Springs, CO

JOHN MONTAÑO, PE
 PRINCIPAL ELECTRICAL | ENGINEER OF RECORD | BRIDGERS & PAXTON

Registrations: Professional Engineer CO (#049797)
 Education: Bachelor of Science, University of New Mexico,
 Electrical Engineering
 Affiliations: Illuminating Engineering Society of North America



John Montaña is a Principal and Electrical Engineer for Bridgers & Paxton with over 29 years of experience. His expertise includes electrical studies, pre-design investigation, fee proposals, estimates of probable electrical construction costs, presentation of progress drawings to clients, lighting design and calculations, power systems design and load calculations, fire alarm system design, lighting protection, telecommunications, specification editing, construction administration and field observations.

John served as Lead Electrical Engineer for his relevant experience projects.

RELEVANT EXPERIENCE

Academy District 20 New Chinook Trail Middle School, Design-Build
 Colorado Springs, CO

Adams State University Richardson Hall Renovation
 Alamosa, CO

Maricopa County Engineering Services On-Call
 Phoenix, AZ

Arizona Dept. of Administration Electrical Engineering Services On-Call,
 Phoenix, AZ

Arizona Department of Revenue Building Cooling Tower Replacement
 Phoenix, AZ

Arizona State Facilities Baltz Generator
 Phoenix, AZ

MCC Scottsdale Community College Library Admin HVAC Upgrades
 Scottsdale, AZ

Point South Mountain Corporate Center Central Plant Assessment
 Phoenix, AZ

Maricopa County Facilities (MCF) Durango Campus 15KV Distribution Feasibility Study, Phoenix, AZ

MCF Maricopa County Sheriff's Office (MCSO) Headquarters Building - Coordination Study
 Phoenix, AZ

MARK BANKSON, NCQLP LC, LEED AP
 SR ELECTRICAL DESIGNER | PROJECT MANAGER | BRIDGERS & PAXTON

Registrations: NCQLP Lighting Certified
Education: Associate of Science, Central New Mexico Community College
Affiliations: Illuminating Engineering Society of North America (IES), Member, National Fire Protection Association (NFPA), Member



Mark Bankson is a NCQLP Lighting Certified, Senior Electrical Designer with over 40 years of experience providing electrical engineering, lighting design, power design and project supervision for site lighting, athletic, medical, office buildings, manufacturing, government, educational, laboratory and retail facilities. He has oversight of complete electrical design and construction administration for projects with values ranging from \$10,000 tenant finishes to \$45,000,000 manufacturing and office facilities. As a project manager, Mark provides electrical design, satisfies building LEED certifications, implements new technologies, performs electrical code and lighting photometric analysis, and project programming from conceptual design to project completion. Mark has received several lighting awards to include the National Merit Award from The Illuminating Society of North America and the Colorado Brilliance Merit Award.

Mark served as Senior Electrical Designer or Project Manager for his relevant experience projects.

RELEVANT EXPERIENCE

Pueblo West Metro District On-Call
 Pueblo West, CO

CSU-Pueblo Technology Building HVAC Upgrade
 Pueblo, CO

CSU-Pueblo Technology Building Renovation
 Design Build, Pueblo, CO

Pueblo District 60 Two New Schools (Design)
 Pueblo, CO

Pueblo District 60 Facility Master Planning,
 Pueblo, CO

Pueblo District 70 Swallows Charter Academy Gym
 & Kitchen, Pueblo West, CO

Swallows Charter Academy,
 Pueblo West, CO

City of Colorado Springs Fire Station 21,
 Colorado Springs, CO

City of Castle Pines New City Hall Building, Castle
 Pines, CO

Colorado Springs Airport Modernization & Fire
 Renovation, Colorado Springs, CO

City of Aurora New Fire Station 16, Aurora, CO
 City of Aurora New Fire Station 15, Aurora, CO

Colorado Springs Alley Lighting Project, Colorado
 Springs, CO

Creekwalk Development, Colorado Springs, CO
 Adams State University Richardson Hall Renovation.
 Alamosa, CO

Pueblo D60 Facility Planning and Assessment
 Pueblo, CO

City of Aurora Fire Station Assessments
 Aurora, CO



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND VERO BROADBAND, LLC., A COLORADO LIMITED LIABILITY COMPANY

SUMMARY:

The Ordinance will approve a license agreement with Vero Broadband, LLC., a Colorado Limited Liability Company, which grants it a nonexclusive license to place telecommunications cable and ancillary facilities within the streets and right of ways of the City of Pueblo in order that the company may operate within the City of Pueblo as a telecommunications or broadband provider. The license agreement preserves, to the extent permitted under existing laws, the City's authority to manage its streets and rights of way for the benefit of the public without discrimination among telecommunications and broadband providers.

PREVIOUS COUNCIL ACTION:

The City of Pueblo has previously approved identical or substantially similar license agreements with other qualifying telecommunication and broadband providers in the past.

BACKGROUND:

The company's website states Vero Broadband was formed to fill a need in unserved and underserved communities where access to affordable, reliable broadband simply does not exist. Their goal is to bring the highest quality fiber-optic based broadband services to these communities. In addition, VERO strives to enhance communities by becoming an active partner in these communities by adding jobs, supporting local causes, and helping improve connectivity of schools and rural healthcare as well. As a qualified broadband or telecommunications service provider, Vero Broadband, LLC., has requested a license from the City of Pueblo for installation of a fiber network within the City of Pueblo.

FINANCIAL IMPLICATIONS:

Vero Broadband, LLC., and its customers will pay the City of Pueblo applicable sales and use tax fees, E911 fees, and occupation taxes.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Pursuant to federal and state law, the City of Pueblo is prohibited from discriminating among or granting preferences to competing telecommunication providers in the issuance of licenses and from creating or erecting any unreasonable requirements for entry to the City of Pueblo's right of way. As such, the City of Pueblo alternatives are limited to proposing amendments to the proposed license agreement that are consistent with the foregoing limitations.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. TC-BB_License_Agreement_-_Vero_Broadband_LLC_(221008)

ORDINANCE NO. 10331

AN ORDINANCE APPROVING A LICENSE AGREEMENT
BETWEEN THE CITY OF PUEBLO, A MUNICIPAL
CORPORATION, AND VERO BROADBAND, LLC., A
COLORADO LIMITED LIABILITY COMPANY

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The License Agreement between the City of Pueblo, a Municipal Corporation and Vero Broadband, LLC., a Colorado Limited Liability Company, a copy of which is attached hereto, having been approved as to form by the City of Pueblo Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the License Agreement in the name of the City of Pueblo, and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:

Hilda Leal
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

W. G. [Signature]
City Clerk

LICENSE AGREEMENT

This **LICENSE AGREEMENT** (“License Agreement”) is entered into this _____ day of November, 2022 (the “Effective Date”), by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as “City”), and Vero Broadband, LLC, a Colorado limited liability company (hereinafter referred to as “Licensee”). Licensee and City may sometimes be referred to in this License Agreement individually as a “party” or collectively as the “parties.”

WITNESSETH

WHEREAS, the City is a Colorado home rule city organized and existing under and by virtue of Article XX of the Colorado Constitution and possesses plenary power and authority over the use and occupation of the public rights of way within its corporate boundaries; and

WHEREAS, Licensee represents and warrants: (a) that it is a “Broadband provider” as that term is defined under Colorado and federal law, including, but not limited to, §38-5.5-102(3), C.R.S., or a “telecommunications provider” as that term is defined under Colorado and federal law, including, but not limited to, §38-5.5-102(9), C.R.S and 47 U.S.C. § 153(51); and (b) that it operates within the geographical boundaries of the City of Pueblo; and

WHEREAS, Licensee provides its telecommunications and/or Broadband services to customers over a network owned, controlled, or leased by Licensee which lines are authorized pursuant to franchise, license agreement, or revocable permit; and

WHEREAS, Licensee may wish to install telecommunications and/or Broadband facilities upon or within certain public rights of way within the corporate boundaries of the City in order to provide telecommunications and/or Broadband services; and

WHEREAS, City is authorized under the constitution and laws of the State of Colorado to grant consent to telecommunications and/or Broadband providers to occupy the public rights of way for such purposes; provided, however, the same shall not be nor constitute the granting of a local franchise under Article 16 of the City’s Charter nor shall same ever become or ripen into any franchise; and

WHEREAS, the City and Licensee have agreed to be bound by the terms and conditions set forth herein which shall govern Licensee’s use of the public rights of way.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the terms, conditions, and mutual promises set forth herein, the parties agree as follows:

ARTICLE I - DEFINITIONS

As used in this License Agreement, the following terms, phrases, and words shall be ascribed the following meanings, unless the context indicates otherwise. As used in this License Agreement, the word “shall” is mandatory, and the word “may” is permissive. Words not defined herein shall be given their common and ordinary meanings, consistent with the context in which such words are used and the purposes of this License Agreement.

1. “Telecommunications Act” shall mean the Telecommunications Act of 1996 (47 U.S.C. §151, et seq.), as amended.

2. (a) “Facilities” means all physical components of the Licensee used to provide telecommunications and/or Broadband services which are located, or to become located pursuant to this License Agreement, within the City and are reasonably necessary, useful, or convenient to provide telecommunications and/or Broadband services within the territorial boundaries of the City, including, without limitation, poles, wires, cables, pipes, underground conduits, ducts, manholes, vaults, fiber optic cables and devices, switches, equipment boxes and sheds, and other structures and appurtenances. This term shall also include any Facilities which were installed under any prior License Agreement between the City and Licensee.

(b) “Leased Facilities” means all physical components used by Licensee to provide telecommunications and/or Broadband services which are leased to Licensee by third parties who are authorized by separate instruments to maintain same within Rights of Way within the City.

3. “Account” shall mean each telephone, telecommunications and/or Broadband access line or twisted pair equivalent provided by or on behalf of Licensee, if Licensee provides any type of local exchange service, at a customer’s premises over which the customer may send or receive any telephone, telegraph, fax, data, video, or other similar telecommunications and/or Broadband signals; except that “Account” shall not include any customer line used solely for receipt of cable television programming. Provision of a T1 or DS1 line furnished by Licensee to a customer which is connected to switched access service or local exchange service shall be counted as twenty-four (24) accounts; provision of a T3/DS3 shall be counted as six hundred seventy-two (672) accounts.

4. “Jurisdiction” shall mean (a) within the corporate boundaries of the City of Pueblo as now or hereafter constituted, (b) at, upon, under, or across the Pueblo Municipal Airport (“Airport”) and Pueblo Municipal Airport Industrial Park (“Industrial Park”), and (c) all highways, streets, roads, and other rights of way between and connecting the City of Pueblo and the Airport and/or Industrial Park where Facilities are located.

5. “Rights of Way” shall mean City streets, roads, alleys, sidewalk areas, and other dedicated rights of way within the Jurisdiction, together with dedicated utility easements within the Jurisdiction and easements deeded to the City for utility purposes, and including state highways

and highways which are part of the federal interstate highway system. The term shall not include any other property owned or leased by the City for other public use including, without limitation, City parks and open spaces.

6. “PMC” shall mean the Pueblo Municipal Code, as amended, and as same may be amended in the future.

7. “Wireless Communications Facility” or “WCF” means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

ARTICLE II - CONDITIONAL CONSENT GRANTED

1. Subject to Licensee’s compliance at all times with all of the terms and conditions of this License Agreement, all of the ordinances referenced herein, all applicable local, state, and federal laws, and further subject to the City’s lawful exercise of its police power (including, but not limited to, zoning, subdivision, permit, and building code requirements) and the City’s prior and superior right to usage for municipal purposes, the City hereby grants to Licensee, insofar as it has or may have the requisite power and authority to do so, a non-exclusive license to make reasonable use of the Rights of Way to construct, install, operate, and maintain Licensee’s Facilities in, through, over, above, and along the City’s Rights-of-Way within the City to and for the benefit of the City and the inhabitants of the City; provided, however, that with respect to state highways, Licensee must separately obtain consent from the Colorado Department of Transportation. This License Agreement shall extend to all areas of the City as it is now constituted, and to additional areas as the City may increase in size by annexation or otherwise.

2. The license granted herein to make reasonable use of the Rights of Way shall not be deemed to be a franchise, nor an exclusive license or right, and the City reserves the right to make or grant a similar use of the Rights of Way to any other person or persons, including one or more other telecommunications providers.

3. The City retains the following rights in regard to this license:

(a) To revoke the license and consent hereby granted for misuse, non-use, or failure of Licensee to comply with the provisions hereof;

(b) To use, control, and regulate the use of the City streets, roads, easements, other public places, and the Rights of Way, and the space above and beneath the same; and

(c) To require the removal or relocation of any of the Facilities from the Rights of Way if necessary or desirable, in the sole but reasonable judgment of the City, for any public or municipal purpose or project.

4. The license granted herein to make reasonable use of the Rights of Way shall not be deemed to grant authorization to construct or operate Wireless Communications Facilities. Authorization to utilize the Rights of Way for Wireless Communications Facilities must be obtained through separate authorization specifically permitting the use of the Rights of Way for Wireless Communications Facilities.

ARTICLE III - SCOPE

The license and consent granted by this License Agreement confer only the right to make reasonable use of the Rights of Way for Licensee's provision of telecommunications and/or Broadband services, and it is expressly understood and agreed to by Licensee that Licensee shall not operate a private telecommunications network, Wireless Communications Facilities, nor operate as a "cable operator" as that term is defined under federal law (47 U.S.C. §522(5)), nor shall it provide or offer to provide "cable services" as that term is defined under federal law (47 U.S.C. §522(6)), without proper local, state and federal authorization, as required by law.

ARTICLE IV - OCCUPATION TAX & E911 SURCHARGES

1. To the extent Licensee operates as a local exchange provider, as defined by §40-15-102(18), C.R.S. and/or as an interexchange provider, as defined by §40-15-102(11), C.R.S. the following provisions shall apply:

(a) Licensee understands and acknowledges that City had heretofore adopted Ordinance No. 4267 in December 1976 imposing upon all telecommunications utilities operating within the City, and effective January 1, 1977, an occupation tax as stated in said Ordinance. In its provision of local exchange services, whether directly or through resale, Licensee agrees to be bound by and comply with said Ordinance, including payment of the tax in an amount equal to six dollars (\$6.00) per annum for each Account, payable quarterly in equal installments. In providing local exchange services, Licensee hereby expressly agrees that it is and constitutes a telephone utility within the meaning of Ordinance No. 4267 and Licensee irrevocably waives and relinquishes any right it has or may have to claim or assert that said Ordinance is invalid under law or should not be applied to Licensee, including, without limitation, any claim that said Ordinance violates any provision of state law or the Telecommunications Act.

(b) The City has by Ordinance No. 9864 imposed an emergency telephone charge ("E911 Charge") of one dollar seventy-two cents (\$1.72) per month per exchange access facility, wireless communications access, and interconnected voice-over-internet-protocol service provided within the Jurisdiction, as authorized by §29-11-100.5, et seq., C.R.S. Licensee agrees to collect the E911 Charge from its customers and promptly remit the same monthly E911 Charge to the City as provided by §29-11-103(1), C.R.S.

ARTICLE V - SALES AND USE TAXES

1. Licensee agrees to obtain a sales and use tax license from the City and to comply

with all provisions of Title XIV of the Pueblo Municipal Code relating to sales and use taxes.

2. Licensee acknowledges and agrees that to the extent Licensee sells telecommunications services to customers within the City, including the provision of interstate telephone access service and interlata access service, such service is taxable by the City pursuant to §14-4-61(3), PMC, and Licensee shall collect such taxes from its customers and promptly remit same to the City in accordance with Title XIV, PMC.

ARTICLE VI - USE OF RIGHTS OF WAY

1. Facilities shall be located, installed, and maintained so that none of the Facilities endanger the lives, health, or safety of persons, or interfere with any public improvements the City or other governmental entities (including any stormwater, sanitary sewer, or water utilities or enterprises) have in place or may deem proper to make, nor shall the location, installation or maintenance of the Facilities hinder or obstruct the use of the streets or other public ways for their public purposes, including, but not limited to, vehicular and pedestrian traffic. All Facilities shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners of property which adjoins any Right of Way.

2. Prior to the commencement of construction of any portion of its telecommunications system within the City (other than Leased Facilities), Licensee shall furnish to the City the general schematic plans for its Facilities, including system route maps, renderings of equipment boxes and structures, engineering, traffic control, and landscaping plans. In addition, the Licensee shall assess and report on the impact of its proposed construction on the City environment. Such plans and reports may be reviewed by the City to ensure, (a) that all applicable laws including building and zoning codes and air and water pollution regulations are complied with, (b) that aesthetic and good planning principles have been given due consideration, and (c) that adverse impact on the environment has been minimized. The Licensee shall comply with all regulatory requirements of the City lawfully binding on the Licensee and shall incorporate all other reasonable changes to its plans requested by the City.

3. Not less than thirty (30) days prior to construction of any Facilities within the Rights of Way at any specific location, Licensee shall furnish the City's Director of Public Works with detailed plans for such Facilities including detailed location drawings and final architectural, engineering, traffic control, and landscaping plans. Prior to commencing construction, Licensee shall: (a) obtain written approval of the Director of Public Works of the construction plans, (b) procure appropriate excavation permits pursuant to Chapter 6 of Title XII, PMC, and permits required by Chapter 3 of Title XII, PMC, or permits required pursuant to any similar ordinance adopted by City in the future, (c) pay all fees associated with such permits, and (d) comply with all requirements of said Chapters 3 and 6 of Title XII, the terms of said permits, and the City's Standard Construction Specifications and Standard Details adopted March 28, 2005, or as subsequently revised.

4. All construction, excavation, maintenance, and repair work done by Licensee shall

be done in a workmanlike and expeditious manner that minimizes the inconvenience to the City, the general public, and individuals. Licensee shall be liable for any damage to the City or City-owned property caused by Licensee's failure to act in a timely manner. All such construction, excavation, maintenance, and repair work done by Licensee shall comply with all applicable codes of the City and the State of Colorado, and Licensee shall be responsible for obtaining all applicable permits and licenses. The City shall have the right to inspect all construction or excavation work to ensure compliance with applicable codes and permits, and may order Licensee to perform corrective work. All public and private property disturbed by Licensee's activities shall be promptly restored by Licensee at its expense to substantially its former condition, subject to inspection by the City's Director of Public Works or their designee and compliance by Licensee with reasonable remedial action required by said official pursuant to the inspection. Licensee shall be liable to the City for the full cost of restoring any public property not promptly remedied by Licensee as required by said official.

5. The installation, maintenance, renovation, and replacement of Facilities by Licensee shall be subject to regulation by the City including as to (a) the location of Facilities in or upon the streets, alleys, and dedicated easements, (b) the disturbance and reconstruction of pavement, sidewalks, and surface of streets, alleys, dedicated easements, and driveways, (c) the timing and scheduling of work, and (d) the temporary closure of portions of streets and alleys. All Facilities shall be designed and installed so as to cause a minimal amount of interference with public property, water mains, sewer mains, electric and natural gas facilities, street lights, traffic signals, and all other municipal or authorized public use of the Rights of Way. The City's Director of Public Works may direct and require Licensee to locate its Facilities within a defined telecommunications corridor within any street or other Right of Way or otherwise at a specific location to minimize interference with other facilities or utilities. Licensee shall install and maintain its Facilities in such manner as to minimize interference with trees, natural features, and vegetation. Whenever feasible, Licensee shall enter into pole-sharing and conduit-sharing agreements with third parties in order to co-locate its wires and cables upon poles or within the conduit of other telecommunications providers or utilities.

6. Licensee shall, upon reasonable notice of not less than sixty (60) days, and at its sole cost and expense, remove, locate, and relocate its Facilities in, on, over, or under any Rights of Way in such manner as the City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair, or change in grade of any street, sidewalk, public improvement, or City project, or for the purpose of promoting the efficient operation of any such public improvement or project, or for the purpose of facilitating the vacation and/or redevelopment of Right of Way by the City. In the event Licensee fails to act within a reasonably allocated time, the City may cause Licensee's Facilities to be relocated, and Licensee shall be liable to the City for the costs thereof. In the event the City causes Licensee's facilities to be relocated, the City shall be held harmless for any damages incurred to Licensee's Facilities during such relocation. Licensee may request an extension of time to relocate facilities due to the inability to relocate its Facilities due to the actions or inactions of a third party which is unaffiliated with Licensee and not under contract with or under the control of Licensee. Such request for extension shall not be unreasonably withheld by the City.

7. Except where specifically authorized by the Director of Public Works of the City, all of Licensee's Facilities located within Rights of Way shall be located underground. In locations where wires or cables of franchisees of the City or of authorized local exchange carriers are presently located above-ground, the Director of Public Works will allow Licensee's Facilities to also be located above-ground unless he has specific reasons for not allowing above-ground installation at such location. Thereafter, and notwithstanding that any such authorization had been given, should the City subsequently determine for any area of the City that telephone or telecommunications wires, cable television cables, or electric utility wires located above ground shall be relocated underground, Licensee shall, upon reasonable notice, at its sole cost and expense, relocate its Facilities below ground in cooperation with other affected interests. In the event that Licensee fails to act within a reasonable allocated time the City may cause Licensee's Facilities to be relocated, and Licensee shall be liable to the City for the costs thereof. In the event the City causes Licensee's Facilities to be relocated, the City shall be held harmless for any damages incurred to Licensee's Facilities during such relocation.

8. After execution of this License Agreement, Licensee shall join and associate with the notification association of owners and operators of underground facilities in accordance with the requirements of Article 1.5 of Title 9, Colorado Revised Statutes. Prior to undertaking any excavation within the Rights of Way, Licensee shall comply with the notice requirements of said Article.

ARTICLE VII - ADDITIONAL CITY REGULATION

1. The City expressly reserves its right and duty to adopt, from time to time, in addition to the provisions herein contained, such charter provisions, ordinances, and rules and regulations as may be deemed necessary by the City to promote the health, safety, and welfare of its inhabitants and their property.

2. Notwithstanding anything in this License Agreement to the contrary, Licensee acknowledges that the City is planning to develop a new telecommunications policy which will be implemented through one or more ordinances or resolutions to be adopted by the City Council of the City, and/or through regulations to be adopted by Departments of the City. Licensee agrees that upon adoption of any such policy or regulations after the Effective Date, this License Agreement or any provision thereof may be unilaterally revoked or canceled by the City without cause and replaced with new terms and conditions which shall be made equally applicable within each class of Broadband or telecommunications provider operating within the City.

3. If, during the term of this License Agreement, the City is authorized pursuant to Colorado Law to collect compensation for use of the Rights of Way by telecommunications providers and the City enacts an ordinance concerning the use of Rights of Way which requires compensation for the use of the Rights of Way from any class of telecommunications providers on a competitively neutral and nondiscriminatory basis within such class, then Licensee shall, in accordance with the terms of such ordinance, pay such compensation.

ARTICLE VIII - COORDINATION AND CONDUIT/POLE SHARING

1. In order to minimize disruption to vehicular traffic and inconvenience to the public, and to enable the limited width of Rights of Way to be apportioned among all utilities, telecommunications providers, and other interests needing to locate or maintain facilities in the Rights of Way for the benefit of the public, it is imperative that pole sharing and conduit sharing be encouraged to the greatest extent possible. In furtherance of such purposes, Licensee agrees that it shall reasonably cooperate with the City, authorized utilities, and other local exchange carriers in placing conduit within the Rights of Way and in sharing unused space within underground conduits owned by Licensee, and upon poles or other above-ground facilities owned by Licensee.

2. Whenever the Licensee intends to install new underground conduit or replace existing underground conduit in a build greater than five hundred (500) feet in length, Licensee shall, whenever feasible, provide the City and all utilities, cable television franchisees, and local exchange carriers authorized to use the Rights of Way, with sixty (60) days advance written notice in order to permit the additional contemporaneous installation of conduit by the City, and such utilities, cable television franchisees, authorized telecommunications providers, and local exchange carriers. If the City desires additional conduit installed, it will so notify the Licensee and the City shall be responsible for the additional incremental expense of installing such additional conduit. If a utility, cable television franchisee, authorized telecommunications provider, or local exchange carrier desires additional conduit installed, it will so notify the Licensee in writing at least ten (10) days prior to the proposed construction date, and such party requesting the additional conduit shall be responsible for a pro-rata expense of installing such additional conduit. This Section is intended to maximize the coordination of facilities located within rights of way, and is not intended to govern routine connections of customers to an installed network not involving significant line extension or other excavations of limited scope.

3. Notwithstanding anything to the contrary in Section 2 of this Article VIII, in order to minimize disruption to the public and enable use of the public rights of way for public purposes, in connection with any installation of underground conduit by Licensee, the City may request Licensee to install one additional conduit for exclusive use by the City for public and municipal purposes. In any such case, Licensee shall install the conduit as requested and the City shall reimburse Licensee only for the cost of the conduit and associated handholes and pull boxes for the conduit, and for the additional incremental expense of installing such additional conduit, handholes, and pullboxes.

ARTICLE IX - INDEMNIFICATION

1. Licensee shall install, construct, maintain, and operate its telecommunications and/or Broadband system in a reasonable manner and shall use commercially reasonable efforts to provide reasonable protection against injury or damage to any and all persons or property. Licensee agrees to indemnify, defend, and hold the City harmless from all claims, costs, demands, suits, reasonable expert witness and attorneys' fees, court costs, and other reasonable costs of defense and judgments to the extent the same arise from, in whole or in part, Licensee's negligent acts or

omissions or failure to comply with the provisions of this License Agreement, and from all damages or penalties to the extent arising out of the installation, construction, operation, or maintenance of Licensee's telecommunications and/or Broadband system, whether or not any act or omission complained of is authorized, allowed, or prohibited by this License Agreement, except to the extent such damages or penalties result from the negligent acts or omissions or intentional or willful and wanton misconduct of the City. The City shall not be liable for, and Licensee shall indemnify, defend, and hold the City harmless from all costs, damages, and claims to the extent arising from or relating to delay by Licensee in performing its obligations hereunder, for any cause whatsoever, except for the negligent acts or omissions or intentional or willful and wanton misconduct of the City, other users of the Rights of Way, or a force majeure event.

2. The City shall provide prompt written notice to the Licensee of the pendency of any claim or action against the City arising out of the operations of the Licensee, the exercise by the Licensee of its rights under this License Agreement or the performance thereof by the Licensee. Licensee shall have sole control over the defense, investigation, and all negotiations for the compromise or settlement of any such claims; however, Licensee shall not enter into any compromise or settlement which imposes any obligation or liability on the City without the prior written consent of the City. The City shall provide Licensee with all reasonable cooperation, information, and assistance in connection with the claim; provided, however, that failure by the City to provide prompt notice of a claim; grant such sole control; and/or provide such cooperation, information and assistance shall not relieve Licensee of its obligations under this Article IX, except to the extent that the City is materially prejudiced by such failure. In the event that Licensee fails to timely assume the defense of any such claim which has been properly and promptly tendered to Licensee. Licensee also hereby agrees to pay all reasonable expenses of the City incurred by the City in defending itself with regard to any such damages, claims, or penalties, including all out-of-pocket expenses, reasonable attorneys' fees, and the reasonable value of any services rendered by the City Attorney, his assistants, or any employees of the City (collectively "Expenses"), but shall not be required to pay for any Expenses that are in excess of any settlement or compromise which was rejected by the City. Nothing herein shall limit the Licensee's obligation of full indemnification under this License Agreement.

ARTICLE X - INSURANCE

Prior to the commencement of any installation of Facilities under this License Agreement, Licensee shall procure and thereafter continuously maintain, for as long as this License Agreement remains in effect, at Licensee's expense, Commercial General Liability ("CGL") insurance written on ISO form CG 00 01 01 96, or a substitute form providing equivalent coverage, with a limit of not less than \$2 Million per occurrence, covering liability arising from premises, operations, independent contractors, personal injury, products completed operations, and liability assumed under an insured contract, on an occurrence basis. Under the terms of the required CGL policy, this License Agreement shall be defined as an insured contract. The policy shall identify the City as an additional insured, shall contain a waiver of right of subrogation against the City and shall have all necessary endorsements to provide coverage without exclusion for explosion, collapse,

and underground property damage hazards. A certificate of insurance shall be filed with the City's Director of Finance prior to commencement of installation of Facilities, which evidences compliance with the policy requirements stated above and provides for thirty (30) days prior written notice to the City prior to cancellation or material change of any insurance referred to therein. In the event the certificate states that it confers no rights upon the certificate holder, the City may require Licensee to furnish a complete copy of the policy including all declarations and endorsements.

ARTICLE XI - TERM

Unless sooner terminated as provided herein, the term of this License Agreement shall be for a period of five (5) years from and after the date of the Agreement. The parties may mutually agree in writing to renew this Agreement at expiration of the initial term.

ARTICLE XII - REMEDIES, TERMINATION, REMOVAL

1. In the event of any breach of the terms of this License Agreement by Licensee, the City shall have the right to obtain one or more of the following remedies, which are expressly agreed to be cumulative, and the exercise of any one (1) or more of them shall not be dependent upon the exercise of any other remedy, nor does the exercise of any one (1) or more of them constitute any bar or limitation to the exercise of any other: (a) specific performance or injunctive relief, (b) monetary damages, and (c) termination. In the event the City is required to commence an action to enforce its rights under this License Agreement or to obtain remedies provided above and the party which substantially prevails therein, shall be entitled to recover its costs, including reasonable attorneys' fees and expert witness fees.

2. Before terminating this License Agreement for cause on account of any default by Licensee, the City shall provide Licensee with written notice of the default and afford Licensee a reasonable period of not less than thirty (30) days in which to cure the default.

3. In the event Licensee abandons the telecommunications or Broadband system installed under the terms of this License Agreement or a certain part thereof or fails to use it for a period of one (1) year, or in the event the term of this License Agreement expires, or this License Agreement is terminated or is canceled for any reason, then Licensee shall remove its telecommunications or Broadband system, or the abandoned portions thereof in the case of a partial abandonment, at its expense. As an alternative to removal, if mutually agreed to by Licensee and the City, the ownership of the telecommunications or Broadband system (or abandoned portions) may be transferred to the City, in which event, all obligations and liabilities of Licensee under this License Agreement in connection with the portion of the telecommunications or Broadband system so transferred to the City shall terminate.

4. Licensee may cancel this License Agreement at any time, as described below, upon ninety (90) days' written notice to the City, subject to the indemnification requirements of this License Agreement, the removal provisions set forth in Section 3 of this Article XII above, and

any other provisions that survive the termination of this License Agreement.

ARTICLE XIII - NOTICES

Except as otherwise provided herein, notice under this License Agreement shall be deemed sufficient if provided in writing and mailed by US certified mail, return receipt requested, or delivered by a nationally recognized courier, and shall be deemed effective upon actual receipt or refusal of delivery, and shall be addressed to the respective party as follows:

If to the City:	Mayor 1 City Hall Pl. Pueblo, CO 81003
with a copy to:	Director of Public Works 211 E. "D" Street Pueblo, CO 81003
If to Licensee (by courier):	Vero Broadband, LLC 1023 Walnut Street Boulder, CO 80302
If to Licensee (by US Mail):	Vero Broadband, LLC PO Box 1110 Boulder, CO 80306

ARTICLE XIV - EFFECT OF MORE FAVORABLE LICENSE AGREEMENTS

In the event that any wireline telecommunications provider offering telecommunications services, other than cable services, for a fee to the public, or to such classes of users as to be effectively available to the public is granted consent to use the City's Rights of Way pursuant to terms and conditions which, if applied to Licensee, would be more favorable than those included herein, Licensee shall notify the City of such terms and conditions and Licensee shall have the option to renegotiate with the City with respect to such terms and conditions.

ARTICLE XV - SUCCESSORS AND ASSIGNS

Licensee may sell, transfer, lease, or assign this License Agreement or its rights under this License Agreement, in whole or in part, with prior thirty (30) days' written notice to the City if to: (a) any entity controlling, controlled by, or under common control with Licensee; or (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization, or consolidation involving Licensee. This License Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. No provision of this License Agreement shall confer rights or benefits upon any person not a party hereto.

ARTICLE XVI - SIGNATURES

The persons signing this License Agreement on behalf of Licensee represent and warrant that such persons and Licensee have the requisite power and authority to enter into, execute and deliver this License Agreement and that this License Agreement is a valid and legally binding obligation of Licensee enforceable against Licensee in accordance with its terms. This License Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of such components together shall constitute one and the same instrument. This License Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

ARTICLE XVII - FORCE MAJEURE

Neither party shall be liable for its failure to perform any of its obligations hereunder if such failure is caused by an Act of God, labor strike, fire, earthquake, power blackouts, pandemics, epidemics, or any other cause beyond its reasonable control and without its fault or negligence.

ARTICLE XVIII - LAWS GOVERNING/VENUE

This License Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and applicable federal law. Venue for any proceeding brought pursuant to this License Agreement shall be in the District Court located in Pueblo County, Colorado or the Federal District Court for the District of Colorado to the extent the dispute involves a federal question.

ARTICLE XIX - COUNTERPARTS; ELECTRONIC DISPOSITION

This Agreement may be executed in multiple counterparts, each of which constitutes an original hereof. Regardless of the number of counterparts, all shall constitute only one agreement. In making proof of this License Agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties. Furthermore, the original of this License Agreement, including the signature page, may be scanned and stored in a computer database or similar device, and any printout or other output readable by sight, the reproduction of which is shown to accurately reproduce the original of this License Agreement, may be used for any purpose as if it were the original, including proof of the content of the original writing.

ARTICLE XX - PUBLIC DISCLOSURE

The Licensee acknowledges that this License Agreement is public record within the meaning of the Colorado Open Records Act, C.R.S. § 24-72-200.1 *et seq.* as the same may be amended, and accordingly may be disclosed to the public.

ARTICLE XXI - AMENDMENT

This License Agreement may not be amended except pursuant to a written instrument signed by both parties.

ARTICLE XXII - OTHER RIGHTS OF WAY USERS

The parties understand and agree that the Licensor permits other persons and entities to install utility facilities in the PROW. In permitting such work to be done by others, the Licensor shall not be liable to Company for any damage caused by those persons or entities.

ARTICLE XXIII - ENTIRE AGREEMENT

This License Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersedes all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only by an agreement in writing which makes specific reference to this License Agreement and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought.

[Remainder of Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, Licensee and the City have executed this License Agreement as of the Effective Date first above written and under the laws of the State of Colorado.

CITY OF PUEBLO,
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

[SEAL]

LICENSEE

Vero Broadband, LLC

DocuSigned by:
By: Gregg Strumberger
15B4B6FC3E84452...
Title: Chief Legal Officer

ATTEST:

DocuSigned by:
Nicole Burke
43B775E81CBA497...
Title: Chief Financial Officer



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND VERO FIBER NETWORKS, LLC., A COLORADO LIMITED LIABILITY COMPANY

SUMMARY:

The Ordinance will approve a license agreement with Vero Fiber Networks, LLC., a Colorado Limited Liability Company, which grants it a nonexclusive license to place telecommunications cable and ancillary facilities within the streets and right of ways of the City of Pueblo in order that the company may operate within the City of Pueblo as a telecommunications or broadband provider. The license agreement preserves, to the extent permitted under existing laws, the City's authority to manage its streets and right of ways for the benefit of the public without discrimination between telecommunications and broadband providers.

PREVIOUS COUNCIL ACTION:

The City of Pueblo has previously approved identical or substantially similar license agreements with other qualifying telecommunication and broadband providers in the past.

BACKGROUND:

The company's website states that Vero Fiber Networks, LLC., is dedicated to helping students benefit from vital technological infrastructure by providing essential bandwidth infrastructure to schools and libraries by connecting district locations with fiber optic cable which will provide reliable, scalable and secure connectivity; enabling educational organizations to deploy digital educational tools and resources in a very cost-effective manner; partnering with technologists with a similar mission to foster a more robust community aimed at enhancing the K-12 education experience in the USA; and annually donating a portion of Vero Fiber Networks, LLC., profits directly to schools in need of equipment, software and tools to aid and improve their educational system. As a qualified broadband or telecommunications service provider, Vero Fiber Networks, LLC., has requested a license from the City of Pueblo for installation of a fiber network

within the City of Pueblo.

FINANCIAL IMPLICATIONS:

Vero Fiber Networks, LLC., and its customers will pay the City of Pueblo applicable sales and use tax fees, E911 fees, and occupation taxes.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Pursuant to federal and state law, the City of Pueblo is prohibited from discriminating among or granting preferences to competing telecommunication providers in the issuance of licenses and from creating or erecting any unreasonable requirements for entry to the City of Pueblo's right of ways. As such, the City of Pueblo alternatives are limited to proposing amendments to the proposed license agreement that are consistent with the foregoing limitations.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. TC-BB_License_Agreement_-_Vero_Fiber_Networks_LLC_(221008)

ORDINANCE NO. 10332

AN ORDINANCE APPROVING A LICENSE AGREEMENT
BETWEEN THE CITY OF PUEBLO, A MUNICIPAL
CORPORATION AND VERO FIBER NETWORKS, LLC., A
COLORADO LIMITED LIABILITY COMPANY

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The License Agreement between the City of Pueblo, a Municipal Corporation and Vero Fiber Networks, LLC., a Colorado Limited Liability Company, a copy of which is attached hereto, having been approved as to form by the City of Pueblo Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the License Agreement in the name of the City of Pueblo, and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:

Hilda Leavins
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Lyssa
City Clerk

LICENSE AGREEMENT

This **LICENSE AGREEMENT** (“License Agreement”) is entered into this _____ day of November, 2022 (the “Effective Date”), by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as “City”), and Vero Fiber Networks, LLC, a Colorado limited liability company (hereinafter referred to as “Licensee”). Licensee and City may sometimes be referred to in this License Agreement individually as a “party” or collectively as the “parties.”

WITNESSETH

WHEREAS, the City is a Colorado home rule city organized and existing under and by virtue of Article XX of the Colorado Constitution and possesses plenary power and authority over the use and occupation of the public rights of way within its corporate boundaries; and

WHEREAS, Licensee represents and warrants: (a) that it is a “Broadband provider” as that term is defined under Colorado and federal law, including, but not limited to, §38-5.5-102(3), C.R.S., or a “telecommunications provider” as that term is defined under Colorado and federal law, including, but not limited to, §38-5.5-102(9), C.R.S and 47 U.S.C. § 153(51); and (b) that it operates within the geographical boundaries of the City of Pueblo; and

WHEREAS, Licensee provides its telecommunications and/or Broadband services to customers over a network owned, controlled, or leased by Licensee which lines are authorized pursuant to franchise, license agreement, or revocable permit; and

WHEREAS, Licensee may wish to install telecommunications and/or Broadband facilities upon or within certain public rights of way within the corporate boundaries of the City in order to provide telecommunications and/or Broadband services; and

WHEREAS, City is authorized under the constitution and laws of the State of Colorado to grant consent to telecommunications and/or Broadband providers to occupy the public rights of way for such purposes; provided, however, the same shall not be nor constitute the granting of a local franchise under Article 16 of the City’s Charter nor shall same ever become or ripen into any franchise; and

WHEREAS, the City and Licensee have agreed to be bound by the terms and conditions set forth herein which shall govern Licensee’s use of the public rights of way.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the terms, conditions, and mutual promises set forth herein, the parties agree as follows:

ARTICLE I - DEFINITIONS

As used in this License Agreement, the following terms, phrases, and words shall be ascribed the following meanings, unless the context indicates otherwise. As used in this License Agreement, the word “shall” is mandatory, and the word “may” is permissive. Words not defined herein shall be given their common and ordinary meanings, consistent with the context in which such words are used and the purposes of this License Agreement.

1. “Telecommunications Act” shall mean the Telecommunications Act of 1996 (47 U.S.C. §151, et seq.), as amended.

2. (a) “Facilities” means all physical components of the Licensee used to provide telecommunications and/or Broadband services which are located, or to become located pursuant to this License Agreement, within the City and are reasonably necessary, useful, or convenient to provide telecommunications and/or Broadband services within the territorial boundaries of the City, including, without limitation, poles, wires, cables, pipes, underground conduits, ducts, manholes, vaults, fiber optic cables and devices, switches, equipment boxes and sheds, and other structures and appurtenances. This term shall also include any Facilities which were installed under any prior License Agreement between the City and Licensee.

(b) “Leased Facilities” means all physical components used by Licensee to provide telecommunications and/or Broadband services which are leased to Licensee by third parties who are authorized by separate instruments to maintain same within Rights of Way within the City.

3. “Account” shall mean each telephone, telecommunications and/or Broadband access line or twisted pair equivalent provided by or on behalf of Licensee, if Licensee provides any type of local exchange service, at a customer’s premises over which the customer may send or receive any telephone, telegraph, fax, data, video, or other similar telecommunications and/or Broadband signals; except that “Account” shall not include any customer line used solely for receipt of cable television programming. Provision of a T1 or DS1 line furnished by Licensee to a customer which is connected to switched access service or local exchange service shall be counted as twenty-four (24) accounts; provision of a T3/DS3 shall be counted as six hundred seventy-two (672) accounts.

4. “Jurisdiction” shall mean (a) within the corporate boundaries of the City of Pueblo as now or hereafter constituted, (b) at, upon, under, or across the Pueblo Municipal Airport (“Airport”) and Pueblo Municipal Airport Industrial Park (“Industrial Park”), and (c) all highways, streets, roads, and other rights of way between and connecting the City of Pueblo and the Airport and/or Industrial Park where Facilities are located.

5. “Rights of Way” shall mean City streets, roads, alleys, sidewalk areas, and other dedicated rights of way within the Jurisdiction, together with dedicated utility easements within the Jurisdiction and easements deeded to the City for utility purposes, and including state highways

and highways which are part of the federal interstate highway system. The term shall not include any other property owned or leased by the City for other public use including, without limitation, City parks and open spaces.

6. “PMC” shall mean the Pueblo Municipal Code, as amended, and as same may be amended in the future.

7. “Wireless Communications Facility” or “WCF” means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

ARTICLE II - CONDITIONAL CONSENT GRANTED

1. Subject to Licensee’s compliance at all times with all of the terms and conditions of this License Agreement, all of the ordinances referenced herein, all applicable local, state, and federal laws, and further subject to the City’s lawful exercise of its police power (including, but not limited to, zoning, subdivision, permit, and building code requirements) and the City’s prior and superior right to usage for municipal purposes, the City hereby grants to Licensee, insofar as it has or may have the requisite power and authority to do so, a non-exclusive license to make reasonable use of the Rights of Way to construct, install, operate, and maintain Licensee’s Facilities in, through, over, above, and along the City’s Rights-of-Way within the City to and for the benefit of the City and the inhabitants of the City; provided, however, that with respect to state highways, Licensee must separately obtain consent from the Colorado Department of Transportation. This License Agreement shall extend to all areas of the City as it is now constituted, and to additional areas as the City may increase in size by annexation or otherwise.

2. The license granted herein to make reasonable use of the Rights of Way shall not be deemed to be a franchise, nor an exclusive license or right, and the City reserves the right to make or grant a similar use of the Rights of Way to any other person or persons, including one or more other telecommunications providers.

3. The City retains the following rights in regard to this license:

(a) To revoke the license and consent hereby granted for misuse, non-use, or failure of Licensee to comply with the provisions hereof;

(b) To use, control, and regulate the use of the City streets, roads, easements, other public places, and the Rights of Way, and the space above and beneath the same; and

(c) To require the removal or relocation of any of the Facilities from the Rights of Way if necessary or desirable, in the sole but reasonable judgment of the City, for any public or municipal purpose or project.

4. The license granted herein to make reasonable use of the Rights of Way shall not be deemed to grant authorization to construct or operate Wireless Communications Facilities. Authorization to utilize the Rights of Way for Wireless Communications Facilities must be obtained through separate authorization specifically permitting the use of the Rights of Way for Wireless Communications Facilities.

ARTICLE III - SCOPE

The license and consent granted by this License Agreement confer only the right to make reasonable use of the Rights of Way for Licensee's provision of telecommunications and/or Broadband services, and it is expressly understood and agreed to by Licensee that Licensee shall not operate a private telecommunications network, Wireless Communications Facilities, nor operate as a "cable operator" as that term is defined under federal law (47 U.S.C. §522(5)), nor shall it provide or offer to provide "cable services" as that term is defined under federal law (47 U.S.C. §522(6)), without proper local, state and federal authorization, as required by law.

ARTICLE IV - OCCUPATION TAX & E911 SURCHARGES

1. To the extent Licensee operates as a local exchange provider, as defined by §40-15-102(18), C.R.S. and/or as an interexchange provider, as defined by §40-15-102(11), C.R.S. the following provisions shall apply:

(a) Licensee understands and acknowledges that City had heretofore adopted Ordinance No. 4267 in December 1976 imposing upon all telecommunications utilities operating within the City, and effective January 1, 1977, an occupation tax as stated in said Ordinance. In its provision of local exchange services, whether directly or through resale, Licensee agrees to be bound by and comply with said Ordinance, including payment of the tax in an amount equal to six dollars (\$6.00) per annum for each Account, payable quarterly in equal installments. In providing local exchange services, Licensee hereby expressly agrees that it is and constitutes a telephone utility within the meaning of Ordinance No. 4267 and Licensee irrevocably waives and relinquishes any right it has or may have to claim or assert that said Ordinance is invalid under law or should not be applied to Licensee, including, without limitation, any claim that said Ordinance violates any provision of state law or the Telecommunications Act.

(b) The City has by Ordinance No. 9864 imposed an emergency telephone charge ("E911 Charge") of one dollar seventy-two cents (\$1.72) per month per exchange access facility, wireless communications access, and interconnected voice-over-internet-protocol service provided within the Jurisdiction, as authorized by §29-11-100.5, et seq., C.R.S. Licensee agrees to collect the E911 Charge from its customers and promptly remit the same monthly E911 Charge to the City as provided by §29-11-103(1), C.R.S.

ARTICLE V - SALES AND USE TAXES

1. Licensee agrees to obtain a sales and use tax license from the City and to comply with all provisions of Title XIV of the Pueblo Municipal Code relating to sales and use taxes.

2. Licensee acknowledges and agrees that to the extent Licensee sells telecommunications services to customers within the City, including the provision of interstate telephone access service and interlata access service, such service is taxable by the City pursuant to §14-4-61(3), PMC, and Licensee shall collect such taxes from its customers and promptly remit same to the City in accordance with Title XIV, PMC.

ARTICLE VI - USE OF RIGHTS OF WAY

1. Facilities shall be located, installed, and maintained so that none of the Facilities endanger the lives, health, or safety of persons, or interfere with any public improvements the City or other governmental entities (including any stormwater, sanitary sewer, or water utilities or enterprises) have in place or may deem proper to make, nor shall the location, installation or maintenance of the Facilities hinder or obstruct the use of the streets or other public ways for their public purposes, including, but not limited to, vehicular and pedestrian traffic. All Facilities shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners of property which adjoins any Right of Way.

2. Prior to the commencement of construction of any portion of its telecommunications system within the City (other than Leased Facilities), Licensee shall furnish to the City the general schematic plans for its Facilities, including system route maps, renderings of equipment boxes and structures, engineering, traffic control, and landscaping plans. In addition, the Licensee shall assess and report on the impact of its proposed construction on the City environment. Such plans and reports may be reviewed by the City to ensure, (a) that all applicable laws including building and zoning codes and air and water pollution regulations are complied with, (b) that aesthetic and good planning principles have been given due consideration, and (c) that adverse impact on the environment has been minimized. The Licensee shall comply with all regulatory requirements of the City lawfully binding on the Licensee and shall incorporate all other reasonable changes to its plans requested by the City.

3. Not less than thirty (30) days prior to construction of any Facilities within the Rights of Way at any specific location, Licensee shall furnish the City's Director of Public Works with detailed plans for such Facilities including detailed location drawings and final architectural, engineering, traffic control, and landscaping plans. Prior to commencing construction, Licensee shall: (a) obtain written approval of the Director of Public Works of the construction plans, (b) procure appropriate excavation permits pursuant to Chapter 6 of Title XII, PMC, and permits required by Chapter 3 of Title XII, PMC, or permits required pursuant to any similar ordinance adopted by City in the future, (c) pay all fees associated with such permits, and (d) comply with all requirements of said Chapters 3 and 6 of Title XII, the terms of said permits, and the City's Standard Construction Specifications and Standard Details adopted March 28, 2005, or as

subsequently revised.

4. All construction, excavation, maintenance, and repair work done by Licensee shall be done in a workmanlike and expeditious manner that minimizes the inconvenience to the City, the general public, and individuals. Licensee shall be liable for any damage to the City or City-owned property caused by Licensee's failure to act in a timely manner. All such construction, excavation, maintenance, and repair work done by Licensee shall comply with all applicable codes of the City and the State of Colorado, and Licensee shall be responsible for obtaining all applicable permits and licenses. The City shall have the right to inspect all construction or excavation work to ensure compliance with applicable codes and permits, and may order Licensee to perform corrective work. All public and private property disturbed by Licensee's activities shall be promptly restored by Licensee at its expense to substantially its former condition, subject to inspection by the City's Director of Public Works or their designee and compliance by Licensee with reasonable remedial action required by said official pursuant to the inspection. Licensee shall be liable to the City for the full cost of restoring any public property not promptly remedied by Licensee as required by said official.

5. The installation, maintenance, renovation, and replacement of Facilities by Licensee shall be subject to regulation by the City including as to (a) the location of Facilities in or upon the streets, alleys, and dedicated easements, (b) the disturbance and reconstruction of pavement, sidewalks, and surface of streets, alleys, dedicated easements, and driveways, (c) the timing and scheduling of work, and (d) the temporary closure of portions of streets and alleys. All Facilities shall be designed and installed so as to cause a minimal amount of interference with public property, water mains, sewer mains, electric and natural gas facilities, street lights, traffic signals, and all other municipal or authorized public use of the Rights of Way. The City's Director of Public Works may direct and require Licensee to locate its Facilities within a defined telecommunications corridor within any street or other Right of Way or otherwise at a specific location to minimize interference with other facilities or utilities. Licensee shall install and maintain its Facilities in such manner as to minimize interference with trees, natural features, and vegetation. Whenever feasible, Licensee shall enter into pole-sharing and conduit-sharing agreements with third parties in order to co-locate its wires and cables upon poles or within the conduit of other telecommunications providers or utilities.

6. Licensee shall, upon reasonable notice of not less than sixty (60) days, and at its sole cost and expense, remove, locate, and relocate its Facilities in, on, over, or under any Rights of Way in such manner as the City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair, or change in grade of any street, sidewalk, public improvement, or City project, or for the purpose of promoting the efficient operation of any such public improvement or project, or for the purpose of facilitating the vacation and/or redevelopment of Right of Way by the City. In the event Licensee fails to act within a reasonably allocated time, the City may cause Licensee's Facilities to be relocated, and Licensee shall be liable to the City for the costs thereof. In the event the City causes Licensee's facilities to be relocated, the City shall be held harmless for any damages incurred to Licensee's Facilities during such relocation. Licensee may request an extension of time to relocate facilities due to the inability to relocate its

Facilities due to the actions or inactions of a third party which is unaffiliated with Licensee and not under contract with or under the control of Licensee. Such request for extension shall not be unreasonably withheld by the City.

7. Except where specifically authorized by the Director of Public Works of the City, all of Licensee's Facilities located within Rights of Way shall be located underground. In locations where wires or cables of franchisees of the City or of authorized local exchange carriers are presently located above-ground, the Director of Public Works will allow Licensee's Facilities to also be located above-ground unless he has specific reasons for not allowing above-ground installation at such location. Thereafter, and notwithstanding that any such authorization had been given, should the City subsequently determine for any area of the City that telephone or telecommunications wires, cable television cables, or electric utility wires located above ground shall be relocated underground, Licensee shall, upon reasonable notice, at its sole cost and expense, relocate its Facilities below ground in cooperation with other affected interests. In the event that Licensee fails to act within a reasonable allocated time the City may cause Licensee's Facilities to be relocated, and Licensee shall be liable to the City for the costs thereof. In the event the City causes Licensee's Facilities to be relocated, the City shall be held harmless for any damages incurred to Licensee's Facilities during such relocation.

8. After execution of this License Agreement, Licensee shall join and associate with the notification association of owners and operators of underground facilities in accordance with the requirements of Article 1.5 of Title 9, Colorado Revised Statutes. Prior to undertaking any excavation within the Rights of Way, Licensee shall comply with the notice requirements of said Article.

ARTICLE VII - ADDITIONAL CITY REGULATION

1. The City expressly reserves its right and duty to adopt, from time to time, in addition to the provisions herein contained, such charter provisions, ordinances, and rules and regulations as may be deemed necessary by the City to promote the health, safety, and welfare of its inhabitants and their property.

2. Notwithstanding anything in this License Agreement to the contrary, Licensee acknowledges that the City is planning to develop a new telecommunications policy which will be implemented through one or more ordinances or resolutions to be adopted by the City Council of the City, and/or through regulations to be adopted by Departments of the City. Licensee agrees that upon adoption of any such policy or regulations after the Effective Date, this License Agreement or any provision thereof may be unilaterally revoked or canceled by the City without cause and replaced with new terms and conditions which shall be made equally applicable within each class of Broadband or telecommunications provider operating within the City.

3. If, during the term of this License Agreement, the City is authorized pursuant to Colorado Law to collect compensation for use of the Rights of Way by telecommunications providers and the City enacts an ordinance concerning the use of Rights of Way which requires

compensation for the use of the Rights of Way from any class of telecommunications providers on a competitively neutral and nondiscriminatory basis within such class, then Licensee shall, in accordance with the terms of such ordinance, pay such compensation.

ARTICLE VIII - COORDINATION AND CONDUIT/POLE SHARING

1. In order to minimize disruption to vehicular traffic and inconvenience to the public, and to enable the limited width of Rights of Way to be apportioned among all utilities, telecommunications providers, and other interests needing to locate or maintain facilities in the Rights of Way for the benefit of the public, it is imperative that pole sharing and conduit sharing be encouraged to the greatest extent possible. In furtherance of such purposes, Licensee agrees that it shall reasonably cooperate with the City, authorized utilities, and other local exchange carriers in placing conduit within the Rights of Way and in sharing unused space within underground conduits owned by Licensee, and upon poles or other above-ground facilities owned by Licensee.

2. Whenever the Licensee intends to install new underground conduit or replace existing underground conduit in a build greater than five hundred (500) feet in length, Licensee shall, whenever feasible, provide the City and all utilities, cable television franchisees, and local exchange carriers authorized to use the Rights of Way, with sixty (60) days advance written notice in order to permit the additional contemporaneous installation of conduit by the City, and such utilities, cable television franchisees, authorized telecommunications providers, and local exchange carriers. If the City desires additional conduit installed, it will so notify the Licensee and the City shall be responsible for the additional incremental expense of installing such additional conduit. If a utility, cable television franchisee, authorized telecommunications provider, or local exchange carrier desires additional conduit installed, it will so notify the Licensee in writing at least ten (10) days prior to the proposed construction date, and such party requesting the additional conduit shall be responsible for a pro-rata expense of installing such additional conduit. This Section is intended to maximize the coordination of facilities located within rights of way, and is not intended to govern routine connections of customers to an installed network not involving significant line extension or other excavations of limited scope.

3. Notwithstanding anything to the contrary in Section 2 of this Article VIII, in order to minimize disruption to the public and enable use of the public rights of way for public purposes, in connection with any installation of underground conduit by Licensee, the City may request Licensee to install one additional conduit for exclusive use by the City for public and municipal purposes. In any such case, Licensee shall install the conduit as requested and the City shall reimburse Licensee only for the cost of the conduit and associated handholes and pull boxes for the conduit, and for the additional incremental expense of installing such additional conduit, handholes, and pullboxes.

ARTICLE IX - INDEMNIFICATION

1. Licensee shall install, construct, maintain, and operate its telecommunications and/or Broadband system in a reasonable manner and shall use commercially reasonable efforts to

provide reasonable protection against injury or damage to any and all persons or property. Licensee agrees to indemnify, defend, and hold the City harmless from all claims, costs, demands, suits, reasonable expert witness and attorneys' fees, court costs, and other reasonable costs of defense and judgments to the extent the same arise from, in whole or in part, Licensee's negligent acts or omissions or failure to comply with the provisions of this License Agreement, and from all damages or penalties to the extent arising out of the installation, construction, operation, or maintenance of Licensee's telecommunications and/or Broadband system, whether or not any act or omission complained of is authorized, allowed, or prohibited by this License Agreement, except to the extent such damages or penalties result from the negligent acts or omissions or intentional or willful and wanton misconduct of the City. The City shall not be liable for, and Licensee shall indemnify, defend, and hold the City harmless from all costs, damages, and claims to the extent arising from or relating to delay by Licensee in performing its obligations hereunder, for any cause whatsoever, except for the negligent acts or omissions or intentional or willful and wanton misconduct of the City, other users of the Rights of Way, or a force majeure event.

2. The City shall provide prompt written notice to the Licensee of the pendency of any claim or action against the City arising out of the operations of the Licensee, the exercise by the Licensee of its rights under this License Agreement or the performance thereof by the Licensee. Licensee shall have sole control over the defense, investigation, and all negotiations for the compromise or settlement of any such claims; however, Licensee shall not enter into any compromise or settlement which imposes any obligation or liability on the City without the prior written consent of the City. The City shall provide Licensee with all reasonable cooperation, information, and assistance in connection with the claim; provided, however, that failure by the City to provide prompt notice of a claim; grant such sole control; and/or provide such cooperation, information and assistance shall not relieve Licensee of its obligations under this Article IX, except to the extent that the City is materially prejudiced by such failure. In the event that Licensee fails to timely assume the defense of any such claim which has been properly and promptly tendered to Licensee. Licensee also hereby agrees to pay all reasonable expenses of the City incurred by the City in defending itself with regard to any such damages, claims, or penalties, including all out-of-pocket expenses, reasonable attorneys' fees, and the reasonable value of any services rendered by the City Attorney, his assistants, or any employees of the City (collectively "Expenses"), but shall not be required to pay for any Expenses that are in excess of any settlement or compromise which was rejected by the City. Nothing herein shall limit the Licensee's obligation of full indemnification under this License Agreement.

ARTICLE X - INSURANCE

Prior to the commencement of any installation of Facilities under this License Agreement, Licensee shall procure and thereafter continuously maintain, for as long as this License Agreement remains in effect, at Licensee's expense, Commercial General Liability ("CGL") insurance written on ISO form CG 00 01 01 96, or a substitute form providing equivalent coverage, with a limit of not less than \$2 Million per occurrence, covering liability arising from premises, operations, independent contractors, personal injury, products completed operations, and liability assumed under an insured contract, on an occurrence basis. Under the terms of the required CGL policy,

this License Agreement shall be defined as an insured contract. The policy shall identify the City as an additional insured, shall contain a waiver of right of subrogation against the City and shall have all necessary endorsements to provide coverage without exclusion for explosion, collapse, and underground property damage hazards. A certificate of insurance shall be filed with the City's Director of Finance prior to commencement of installation of Facilities, which evidences compliance with the policy requirements stated above and provides for thirty (30) days prior written notice to the City prior to cancellation or material change of any insurance referred to therein. In the event the certificate states that it confers no rights upon the certificate holder, the City may require Licensee to furnish a complete copy of the policy including all declarations and endorsements.

ARTICLE XI - TERM

Unless sooner terminated as provided herein, the term of this License Agreement shall be for a period of five (5) years from and after the date of the Agreement. The parties may mutually agree in writing to renew this Agreement at expiration of the initial term.

ARTICLE XII - REMEDIES, TERMINATION, REMOVAL

1. In the event of any breach of the terms of this License Agreement by Licensee, the City shall have the right to obtain one or more of the following remedies, which are expressly agreed to be cumulative, and the exercise of any one (1) or more of them shall not be dependent upon the exercise of any other remedy, nor does the exercise of any one (1) or more of them constitute any bar or limitation to the exercise of any other: (a) specific performance or injunctive relief, (b) monetary damages, and (c) termination. In the event the City is required to commence an action to enforce its rights under this License Agreement or to obtain remedies provided above and the party which substantially prevails therein, shall be entitled to recover its costs, including reasonable attorneys' fees and expert witness fees.

2. Before terminating this License Agreement for cause on account of any default by Licensee, the City shall provide Licensee with written notice of the default and afford Licensee a reasonable period of not less than thirty (30) days in which to cure the default.

3. In the event Licensee abandons the telecommunications or Broadband system installed under the terms of this License Agreement or a certain part thereof or fails to use it for a period of one (1) year, or in the event the term of this License Agreement expires, or this License Agreement is terminated or is canceled for any reason, then Licensee shall remove its telecommunications or Broadband system, or the abandoned portions thereof in the case of a partial abandonment, at its expense. As an alternative to removal, if mutually agreed to by Licensee and the City, the ownership of the telecommunications or Broadband system (or abandoned portions) may be transferred to the City, in which event, all obligations and liabilities of Licensee under this License Agreement in connection with the portion of the telecommunications or Broadband system so transferred to the City shall terminate.

4. Licensee may cancel this License Agreement at any time, as described below, upon

ninety (90) days' written notice to the City, subject to the indemnification requirements of this License Agreement, the removal provisions set forth in Section 3 of this Article XII above, and any other provisions that survive the termination of this License Agreement.

ARTICLE XIII - NOTICES

Except as otherwise provided herein, notice under this License Agreement shall be deemed sufficient if provided in writing and mailed by US certified mail, return receipt requested, or delivered by a nationally recognized courier, and shall be deemed effective upon actual receipt or refusal of delivery, and shall be addressed to the respective party as follows:

If to the City:	Mayor 1 City Hall Pl. Pueblo, CO 81003
with a copy to:	Director of Public Works 211 E. "D" Street Pueblo, CO 81003
If to Licensee (by courier):	Vero Fiber Networks, LLC 1023 Walnut Street Boulder, CO 80302
If to Licensee (by US Mail):	Vero Fiber Networks, LLC PO Box 1110 Boulder, CO 80306

ARTICLE XIV - EFFECT OF MORE FAVORABLE LICENSE AGREEMENTS

In the event that any wireline telecommunications provider offering telecommunications services, other than cable services, for a fee to the public, or to such classes of users as to be effectively available to the public is granted consent to use the City's Rights of Way pursuant to terms and conditions which, if applied to Licensee, would be more favorable than those included herein, Licensee shall notify the City of such terms and conditions and Licensee shall have the option to renegotiate with the City with respect to such terms and conditions.

ARTICLE XV - SUCCESSORS AND ASSIGNS

Licensee may sell, transfer, lease, or assign this License Agreement or its rights under this License Agreement, in whole or in part, with prior thirty (30) days' written notice to the City if to: (a) any entity controlling, controlled by, or under common control with Licensee; or (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization, or consolidation involving Licensee. This License Agreement shall inure to the

benefit of and be binding upon the parties hereto and their respective successors and assigns. No provision of this License Agreement shall confer rights or benefits upon any person not a party hereto.

ARTICLE XVI - SIGNATURES

The persons signing this License Agreement on behalf of Licensee represent and warrant that such persons and Licensee have the requisite power and authority to enter into, execute and deliver this License Agreement and that this License Agreement is a valid and legally binding obligation of Licensee enforceable against Licensee in accordance with its terms. This License Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of such components together shall constitute one and the same instrument. This License Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

ARTICLE XVII - FORCE MAJEURE

Neither party shall be liable for its failure to perform any of its obligations hereunder if such failure is caused by an Act of God, labor strike, fire, earthquake, power blackouts, pandemics, epidemics, or any other cause beyond its reasonable control and without its fault or negligence.

ARTICLE XVIII - LAWS GOVERNING/VENUE

This License Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and applicable federal law. Venue for any proceeding brought pursuant to this License Agreement shall be in the District Court located in Pueblo County, Colorado or the Federal District Court for the District of Colorado to the extent the dispute involves a federal question.

ARTICLE XIX - COUNTERPARTS; ELECTRONIC DISPOSITION

This Agreement may be executed in multiple counterparts, each of which constitutes an original hereof. Regardless of the number of counterparts, all shall constitute only one agreement. In making proof of this License Agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties. Furthermore, the original of this License Agreement, including the signature page, may be scanned and stored in a computer database or similar device, and any printout or other output readable by sight, the reproduction of which is shown to accurately reproduce the original of this License Agreement,

may be used for any purpose as if it were the original, including proof of the content of the original writing.

ARTICLE XX - PUBLIC DISCLOSURE

The Licensee acknowledges that this License Agreement is public record within the meaning of the Colorado Open Records Act, C.R.S. § 24-72-200.1 *et seq.* as the same may be amended, and accordingly may be disclosed to the public.

ARTICLE XXI - AMENDMENT

This License Agreement may not be amended except pursuant to a written instrument signed by both parties.

ARTICLE XXII - OTHER RIGHTS OF WAY USERS

The parties understand and agree that the Licensor permits other persons and entities to install utility facilities in the PROW. In permitting such work to be done by others, the Licensor shall not be liable to Company for any damage caused by those persons or entities.

ARTICLE XXIII - ENTIRE AGREEMENT

This License Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersedes all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only by an agreement in writing which makes specific reference to this License Agreement and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought.

[Remainder of Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, Licensee and the City have executed this License Agreement as of the Effective Date first above written and under the laws of the State of Colorado.

CITY OF PUEBLO,
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

[SEAL]

LICENSEE

Vero Fiber Networks, LLC

DocuSigned by:
By: Gregg Strumberger
15B4B6FC3E84452...
Title: Chief Legal Officer

ATTEST:

DocuSigned by:
Evan Biagi
3C0FD33E6D7C409...
Title: Chief Revenue Officer



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE APPROVING THE LANDLORD CONSENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABILITY CORPORATION, ("FREEMAN") AND CENTENNIAL BANK, FOR FREEMAN TO USE ITS LEASEHOLD INTEREST TO SECURE A BUSINESS LOAN, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

An ordinance approving the Landlord Consent Agreement between the City of Pueblo, a Municipal Corporation, and Freeman Holdings of Colorado, LLC, a Limited Liability Corporation, ("Freeman") and Centennial Bank, for Freeman to use its leasehold interest in certain Pueblo Memorial Airport property to secure a business loan, and authorizing the Mayor to execute the same.

PREVIOUS COUNCIL ACTION:

City Council approved Ordinance No. 10220 on July 11, 2022, which ratified the Fixed Based Operator Ground Lease and Operating Agreement ("Lease") for a fixed base operation at the Pueblo Memorial Airport.

BACKGROUND:

The City is the owner of properties at the Pueblo Memorial Airport and has leased 525 Skyway Street, 30900 Bryan Circle, 31000 Bryan Circle, and certain other ramp space and fuel tanks, Freeman through the Lease. Freeman would like to obtain a loan from Centennial Bank for the purpose of refinancing indebtedness, secured by Freeman's leasehold interest in the fixed base operator facility, for which it needs City's consent. With the execution of the Landlord Consent Agreement, should Freeman default on the loan agreement, Centennial Bank would have the right to step into the Lease in the same position as Freeman and hold all the same responsibilities, including the payment of rent and fees.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, Freeman will not be able to use its leasehold interest to secure the loan, which may affect its ability to conduct business.

RECOMMENDATION:

The Department of Aviation has deferred to the opinion of the Law Department. The Law Department has recommended that this Ordinance be approved.

ATTACHMENTS:

1. Freeman Holdings 2022 11 28 REDACTED LANDLORD CONSENT AGREEMENT
2. Freeman Holding Group 2022 07 11 LEASE

ORDINANCE NO. 10333

AN ORDINANCE APPROVING THE LANDLORD CONSENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABILITY CORPORATION, ("FREEMAN") AND CENTENNIAL BANK, FOR FREEMAN TO USE ITS LEASEHOLD INTEREST TO SECURE A BUSINESS LOAN, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, it is a condition of Centennial Bank's agreement to make a loan to Freeman Holdings of Colorado, LLC that the City of Pueblo execute a Landlord Consent Agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Landlord Consent Agreement ("Agreement"), by and between the City of Pueblo, a Municipal Corporation, and Freeman Holdings of Colorado, LLC, a Limited Liability Corporation, ("Freeman") and Centennial Bank, consenting to Freeman's use of its leasehold interest to secure a loan, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Agreement on behalf of the City of Pueblo, and the City Clerk shall affix the Seal of the City thereto and attest same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Agreement to implement the terms and conditions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:

Hilda Leal
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Lygia
City Clerk

LANDLORD CONSENT AGREEMENT

THIS LANDLORD CONSENT AGREEMENT (the “Agreement”) is executed as of the 28th day of November, 2022 by and among the CITY OF PUEBLO, a municipal corporation of the State of Colorado (the “Landlord”), FREEMAN HOLDINGS OF COLORADO LLC (the “Tenant”) and CENTENNIAL BANK (the “Lender”).

WHEREAS, the Landlord is the owner and landlord of that certain real property located in Pueblo County, Colorado, commonly known as 525 Skyway Street, 30900 Bryan Circle, 31000 Bryan Circle, and certain other ramp space and fuel tanks, which are more particularly described on Exhibits B, C, and D of the Lease (the “Premises”), said Lease being referred to and defined immediately below;

WHEREAS, the Tenant currently occupies the Premises pursuant to that certain Fixed Base Operator Ground Lease and Operating Agreement among the Landlord, the Tenant and Rocky Mountain FBO, LLC, dated as of July 11, 2022 (the “Lease”) and has located or intends to locate various items of personal property on the Premises, including, without limitation, inventory, goods, furniture and equipment associated with its operation of the Premises as a fixed base operator (collectively, the “Personal Property”);

WHEREAS, the Tenant has requested the Lender to make a loan to it in the original principal amount of \$[REDACTED] for the purpose of refinancing indebtedness secured by Tenant’s interest in the fixed base operator facility (the “Loan”);

WHEREAS, it is a condition to Lender’s agreement to make the Loan that the Tenant execute and deliver a Leasehold Deed of Trust, Security Agreement and Assignment of Rents and related security and collateral documents over and encumbering the Tenant’s interests in the Premises and the Personal Property;

WHEREAS, it is a further condition to Lender’s agreement to make the Loan that the Landlord execute this Agreement and Landlord is willing to do so;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Landlord hereby consents solely to the Tenant’s grant of a Leasehold Deed of Trust interest in the Premises to the Lender. Tenant shall not grant and Lender shall not accept any interest in the real property or the structures or improvements thereon. Lender shall not lien or attempt to foreclose on any interest in the real property or the structures or improvements thereon. Landlord does not have a lien on the Personal Property, and the Personal Property shall remain personal property only if it is not affixed to the Premises in such a way that under the law of the State of Colorado or pursuant to the terms of the Lease, it is deemed to have become a part of the real estate; but in general, and subject to the terms of the Lease, the parties acknowledge that the Personal Property is not intended to become a fixture on the Premises but to remain as personal property.

2. In the event of a default under the Lease, the Landlord agrees to provide the Lender with written notice of such default upon the same terms as such notice is required to be given by Landlord to Tenant pursuant to Section 21 of the Lease, and the Lender shall have the option, but not the obligation, to cure such default on behalf of the Tenant. If the Lender opts to cure such default, it shall have thirty (30) days to do so in accordance with Section 21.B. of the Lease.

3. Landlord understands and acknowledges that the Lender will execute a Leasehold Deed of Trust over the Premises in favor of Lender which would entitle Lender to foreclose on its Leasehold Deed of Trust interest and succeed to the Tenant's interest in the Premises as set forth in the Lease. Should Lender succeed to the Tenant's interest in the Premises set forth in the Lease, Lender shall be bound by the terms of the Lease and the obligations therein without amendment. Landlord has consented to the Leasehold Deed of Trust and upon performance by Lender, or its successors or assigns if consented to by Landlord, of Tenant's obligations under the Lease, Landlord shall treat Lender, or its successors or assigns consented to by Landlord, as the rightful and lawful tenant under such Lease. In such event, Lender shall use reasonable efforts to ensure that fees and payments to Landlord pursuant to the Lease are equal to or higher than those paid by the Tenant in the last full month of its operation and control of the Premises, it being understood and agreed that Lender is not guaranteeing that such fees and payments will not go down and if such fees and payments do go down despite Lender's performance of its obligations pursuant to this Agreement and the Lease, Lender shall have no liability with respect thereto. In the event of a default by Tenant in the payment or performance of any of its obligations to the Lender, the Lender may, subject to the rights of the Tenant, (i) enter upon the Premises and maintain the Personal Property and operate the business on the premises, with full right of access thereto, or find such other operator, to be consented to by Landlord, to do so on Lender's behalf, provided the Lender pays any rent or other payments to the Landlord that the Tenant would have been required to pay under the Lease, and provided that Lender complies with all of the terms of the Lease that Tenant would have been required to comply with in order not to be in default under the Lease, or (ii) pursuant to a perfected security interest held by Lender, enter upon the Premises for the sole purpose of removing the Personal Property or any part thereof from the Premises. Lender shall repair any damage caused by Lender's removal of Personal Property or access to the Premises and Lender agrees to defend, indemnify, and hold the Landlord harmless from and against any and all liabilities, damages, injuries, loss, cost and expense of any kind or character, including attorneys' fees, arising from or in connection with Lender's access to the Premises or the removal of the Personal Property from the Premises except those caused by the gross negligence or intentional misconduct of Landlord. Except in the event of a foreclosure as mentioned above, or the payment of rent or other payments or obligations during periods in which it occupies the Premises, or as otherwise specifically set forth in writing between Lender and Tenant, the Lender shall have no obligation for rent or any other payments or obligations of Tenant to the Landlord. Lender's access to and use of the Premises must at all times comply with the terms of the Lease and federal, state, and local law, including but not limited to Federal Aviation Administration (FAA) regulations, security procedures and requirements, and nondiscrimination requirements.

4. Lender and Tenant understand and agree that Landlord owns all fixtures and improvements on the Premises. Notwithstanding the terms of the Leasehold Deed of Trust, Security Agreement and Assignment of Rents and related security and collateral documents, Tenant does not own the fixtures and improvements on the Premises nor those that may in the

future be constructed on the Premises, transfers no right to the same to Lender, and Lender disclaims and waives all interest in the same.

5. This agreement shall inure to the benefit of the successors and assigns of the Lender as approved by Landlord and in accordance with the Lease, and shall be binding upon the successors and assigns of Landlord, and upon any purchaser of the undersigned's interest in the Premises. Lender must first obtain Landlord's consent prior to assigning the Tenant's leasehold interest to any other party pursuant to the terms of the Lease. This Agreement and any leasehold interest shall only be assigned through a signed writing between Landlord and Lender and the assignee.

6. The Landlord and the Tenant represent and warrant to the Lender that to their knowledge after reasonable inquiry and investigation: (a) the Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way; (b) the Lease represents the entire agreement between the parties as to the leasing of the Premises; (c) there are no defaults by either Landlord or Tenant under the Lease; (d) the original term of the Lease began on July 11, 2022 and ends on the last day of July 31, 2042 provided that Tenant may extend the term for two additional ten (10) year terms; and (e) the Tenant (or its predecessor in interest) took possession of the Property under the Lease on July 11, 2022, and currently remains in possession of the Property.

7. The parties hereto agree that: (i) this Agreement and the Lease constitute the entire agreement between the parties hereto pertaining to the subject matter contained herein; (ii) this Agreement shall not be modified or amended except by an instrument in writing signed by all of the parties hereto; (iii) if, after the date hereof, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable, and in lieu thereof there shall be added a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable, but subject to the approval of all parties hereto; (iv) this Agreement has been negotiated and drafted by all of the parties hereto and no ambiguity found herein shall be interpreted against one party hereto or the other; (v) all titles, headings, and captions used in this Agreement have been included for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement; (vi) each party hereto shall make an effort to execute and deliver any further commercially reasonable instruments as may be necessary to implement fully the terms and provisions hereof; (vii) the persons executing this agreement possess the proper authority necessary in order to bind the parties hereto to their respective obligations; (viii) all warranties, covenants, and agreements contained herein shall survive this Agreement; (ix) this Agreement may be executed in multiple separate counterparts which when compiled shall constitute one document and (ix) the validity, construction, interpretation, and administration of this Agreement shall be governed by the substantive laws of the State of Colorado.

8. Any notice to be provided to Lender under this Agreement shall be provided to Lender in the manner provided for notice in Section 22 of the Lease, and the following person at the following address:

CENTENNIAL BANK
Attn: Jeannie Hill
1445 Hogan Lane, Suite 1
Conway Arkansas 72034
Facsimile: 501-328-4647

With a copy to:

GILL RAGON OWEN, P.A.
Attn: Daniel Goodwin
425 West Capitol Avenue, Suite 3801
Little Rock, Arkansas 72201
Fax: (501) 372-3359

9. Notwithstanding anything contained in this Agreement to the contrary, this Agreement is not intended to amend, modify, negate or otherwise change any of the terms contained in the Lease, and all terms of the Lease remain fully in effect and shall control the rights, duties, liabilities and other matters related to the parties hereto and to the subject matter contained herein, and this Agreement is for the purpose of acknowledging and confirming the terms of the Lease as to their affect on the subject matter contained herein.

10. It is expressly agreed and understood that this document may be executed in multiple counterparts and with multiple signature pages and that all signature pages, when attached to and assembled with this document, shall constitute and comprise a single document that is enforceable against all parties on all signature pages in accordance with this document's terms. This Agreement may also be executed by providing an electronic signature under the terms of the Electronic Signatures Act, 15 U.S.C. SS 7001 et seq., and may not be denied legal effect solely because it is in electronic form or permits the completion of the business transaction referenced herein electronically instead of in person.

[This Space Intentionally Left Blank; Signatures to Follow]

[Signature Page to Landlord Consent Agreement]

IN WITNESS WHEREOF, the parties have executed this Landlord Consent Agreement as of the date set forth in the preface.

LANDLORD:

City of Pueblo

By: _____

Title: _____

THE STATE OF
COUNTY OF

This instrument was acknowledged before me on this ____ day of _____, 2022.

Notary Public

LENDER:

Centennial Bank

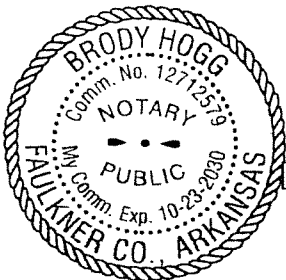
By: Jeannie Hall

Title: SVP

THE STATE OF Arkansas
COUNTY OF Faulkner

This instrument was acknowledged before me on this 25th day of Oct, 2022.

Brody Hogg
Notary Public



[This Space Intentionally Left Blank; Additional Signatures to Follow]

[Additional Signature Page to Landlord Consent Agreement]

TENANT:

Freeman Holdings of Colorado LLC

By: *Francis B. Freeman Jr.*
Francis B. Freeman Jr., Managing Member

THE STATE OF
COUNTY OF

This instrument was acknowledged before me on this 21 day of October, 2022.

Casey Clayton
Notary Public



ORDINANCE NO. 10220

AN ORDINANCE APPROVING A FIXED BASE OPERATOR GROUND LEASE AND OPERATING AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABILITY CORPORATION, RESCINDING ALL PREVIOUS AGREEMENTS WITH ROCKY MOUNTAIN FBO, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo is the owner and operator of the Pueblo Memorial Airport together with the land on which said Airport is situated; and

WHEREAS, Freeman Holdings of Colorado, LLC is desirous of leasing certain property for the purpose of a fixed base operation, where said property is owned by the City of Pueblo; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

A certain Fixed Base Operator Ground Lease and Operating Agreement ("Lease"), by and between the City of Pueblo, a Municipal Corporation, and Freeman Holdings of Colorado, LLC, a Limited Liability Company, and Rocky Mountain FBO, LLC, a Colorado Limited Liability Company, to lease space for a fixed base operation at the Pueblo Memorial Airport, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Lease on behalf of the City of Pueblo, and the City Clerk shall affix the Seal of the City thereto and attest same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Lease to implement the terms and conditions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 27, 2022.

Final adoption of Ordinance by City Council on July 11, 2022.



President of City Council

Action by the Mayor:

☒ Approved on July 13, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

**FIXED BASE OPERATOR
GROUND LEASE AND OPERATING AGREEMENT**

THIS LEASE AGREEMENT ("Lease") is made and entered into as of JULY 11, 2022 ("Effective Date"), between the City of Pueblo, a Municipal Corporation, with an address of One City Hall Place, Pueblo, Colorado 81003, ("Lessor") and Freeman Holdings of Colorado, LLC, a Colorado limited liability company, d/b/a Freeman Jet Center Pueblo, with an address of 16221 Foster Street, Overland Park, Kansas 66085, ("Lessee") and Rocky Mountain FBO, LLC, a Colorado limited liability company, d/b/a Flower Aviation FBO, with an address of 31000 Bryan Circle, Pueblo, Colorado 81001 ("Flower").

WHEREAS, the Lessor is the owner and operator of the Pueblo Memorial Airport ("Airport"), together with the land on which said Airport is situated; and

WHEREAS, Lessee is desirous of leasing certain real property, ramp space, and fuel tanks on said Airport property for the purpose of the sale of aviation fuels and other related aviation services; and

WHEREAS, Lessor entered into a certain Ground Lease and Operating Agreement dated June 25, 2005 ("Lease No. 1") with Travelaire Service, Inc., a Colorado corporation, ("Travelaire") for the parcel commonly known as 525 Skyway Street, Pueblo, Colorado, and Jet-A Tank No. 4, the legal description for which is contained in Lease No. 1; and

WHEREAS, Lessor entered into Amendment No. 1 ("Amendment") to the Lease No. 1 dated April 24, 2006 with Travelaire and Flower, evidenced by Resolution No. 10700, where several changes were made, including but not limited to, the initial term of Lease No. 1 being amended to end April 30, 2026, AV-Fuel Tank No. B being added to the lease, and Lessor consenting to assignment of Lease No. 1 from Travelaire to Flower; and

WHEREAS, Lessor entered into the Fuel Tank Agreement ("FT Agreement") dated May 1, 2008 with Flower, where Lease No. 1 was further amended to substitute AV-Fuel Tank No. C for AV-Fuel Tank No. B and more specific terms were set out with regards to use of the fuel tanks under the lease; and

WHEREAS, Lessor executed the Consent to Assignment evidenced by Resolution No. 13354 on December 28, 2015, consenting to and assigning Lease No. 1 from Flower to PDC Acquisition Corp., a Colorado corporation ("PDC"); and

WHEREAS, Lessor entered into the Assignment of Lease Agreement ("Assignment") to the Lease No. 1 dated March 24, 2017 with PDC and Flower, where Lease No. 1, was assigned back to Flower; and

WHEREAS, Lessor entered into a certain Ground Lease and Operating Agreement dated October 26, 2015 ("Lease No. 2") with PDC for Parcel C, more commonly known as 31000 and 30900 Bryan Circle, Pueblo, Colorado, and attached spaces; and

WHEREAS, Lessor executed the Assignment of Lease Agreement dated December 31,

2016 with PDC and Flower, assigning Lease No. 2 from PDC to Flower; and

WHEREAS, Flower is selling all of its assets to Lessee in accordance with the Asset Purchase Agreement, including its interests in Lease No. 1 and Lease No. 2, as each were amended and assigned, and Lessor does not object to the sale and transfer; and

WHEREAS, the parties desire to condense the aforementioned documents and create a single agreement with which to bind the parties.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Leased Property:

- A. The Lessor hereby leases unto the Lessee and Lessee hereby leases from Lessor for the term and upon the requirements and conditions hereinafter stated, the real property marked as "Leased Premises" on the plot plan, attached hereto and incorporated herein as Exhibit B, ("Leased Premises") situated in the County of Pueblo, State of Colorado, subject to existing easements and deed restrictions, including all structures thereon which Lessee acknowledges are the property of Lessor, including but not limited to:
- i. 525 Skyway Street: six thousand four hundred (6,400) square foot hangar and two thousand four hundred seventy-two (2,472) square feet of office space that includes one thousand three hundred fifty-two (1,352) square feet of ground floor and one thousand one hundred twenty (1,120) square feet of second story. Land leased for 525 Skyway Street is 36,216 square feet.
 - ii. 30900 Bryan Circle: ten thousand (10,000) square foot hangar, two thousand five hundred (2,500) square foot ground floor office and garage, thousand five hundred (2,500) square foot of second story improved space, two thousand (2,000) square foot attached shop, two thousand (2,000) square foot second story storage, three thousand (3,000) square foot ground floor vehicle shop, and five hundred eighty-eight (588) square foot second story improved space.
 - iii. 31000 Bryan Circle: four thousand three hundred sixty-seven (4,367) square feet of improved space. Land leased for 30900 Bryan Circle and 31000 Bryan Circle totals 79,335 square feet.

The term Leased Premises as used herein, means and includes the real property and structures described above, as well as any improvement hereafter constructed or added thereto.

- B. Subject to the terms of this Lease, Lessor hereby leases to Lessee 83,626 square feet of ramp space, meaning and including that ramp space indicated as "Ramp" on the plot plan attached hereto and incorporated herein as Exhibit C, ("Ramp")

situated in the County of Pueblo, State of Colorado. The Leased Premises and Ramp do not include gates through the Airport fence, including but not limited to Gate D or the FBO Pedestrian Gate adjacent to the Ramp, and Lessor, its staff, and all users of the Airport may use such gates in accordance with applicable rules and regulations. Lessor, its staff, and all users of the Airport may use such areas of the Ramp as necessary for persons to access and use Airport gates for ingress and egress.

- C. Subject to the terms of this Lease, Lessor hereby leases to Lessee four fuel tanks designated as (i) 40-3a, (ii) 40-2, (iii) 40-2a, (iv) 40-1, (v) 20-3, and (vi) 20-1 (together the "Fuel Tanks") at Lessor's fuel farm, indicated as "Fuel Tanks" on the plot plan attached hereto and incorporated herein as Exhibit D, situated in the County of Pueblo, State of Colorado.
- D. The Leased Premises will be used for the regular business of a full service fixed base operator ("FBO"), including the sale of aviation fuel and related products and services. Any aircraft stored on the Leased Premises must be continually registered with the Federal Aviation Administration ("FAA") throughout the life of this Lease and the tail numbers for same must be reported to Lessor. Lessee agrees to report any changes in aircraft tail numbers to Lessor within fourteen (14) days, in order for Lessor to comply with FAA reporting requirements.
- E. This Lease and Lessee's use of the Leased Premises, Ramp, and Fuel Tanks, together on the plot plan attached hereto and incorporated herein as Exhibit A, are subject to the easements, rights of way, covenants, conditions, restrictions, reservations, and limitations appearing of record, and all applicable zoning and land use laws, ordinances, codes, and regulations, including but not limited to all conditions, regulations, restrictions, and requirements imposed by the FAA, governing and regulating the Leased Premises, Ramp, and Fuel Tanks and their respective uses. Lessee shall have exclusive use of the Leased Premises, Ramp, and Fuel Tanks subject to the terms of this Lease.

2. **Term:**

- A. The term of this Lease is for a period of twenty (20) years commencing on the Effective Date ("Commencement Date") and ending midnight on July 31, 2042, ("Initial Term") unless sooner terminated as herein provided. Provided that Lessee is not in default beyond any applicable cure period, the Lessee shall have the option to renew this Lease for one additional term of ten (10) years ("First Extension Term"). After the end of the First Extension Term, provided that Lessee is not in default beyond any applicable cure period, Lessee shall have the option to renew this Lease for an additional term of ten (10) years ("Second Extension Term") (the First Extension Term and Second Extension Term together the "Extension Terms").
- B. These Extension Terms shall automatically be deemed exercised by the Lessee unless it provides the Lessor with written notice of its intention not to do so at least

sixty (60) days prior to the end of the then current term. Should either the Lessor or Lessee not wish to renew this Lease for the Second Extension Term, a party may provide the other written notice of its intention not to renew this Lease. This written notice shall be given not earlier than one hundred eighty (180) days nor less than one hundred twenty (120) days prior to the expiration of the Initial Term or either Extension Term.

- C. All conditions and covenants contained herein shall remain in full force and effect during any and all extension periods.

3. Rental Rate, Other Fees, and Commercial Charge:

- A. Lessee shall pay to Lessor monthly as rent for the land and structures covered by this Lease, the following amounts: \$1,529.86 per month for the land portion of Leased Premises; and \$8,551.13 per month for the structures located on the Leased Premises; and \$567.81 per month for exclusive use Ramp. The total monthly rent for the land, structures, and Ramp is equal to \$10,648.80.
- B. Lessee shall also pay as rent and for the privilege to sell or dispense aviation fuel from the Leased Premises a monthly fuel flow fee of nine and four-tenths cents (\$0.094) per gallon, starting with the month of August 2022 and each month thereafter for each gallon of aviation fuel delivered, or caused to be delivered to the Fuel Tanks, or if Lessee constructs its own fuel storage facilities, either alone or with Lessor or other lessees, or uses other fuel storage facilities at the Airport, delivered, or caused to be delivered by Lessee to such fuel storage facilities. Lessee shall not construct its own fuel storage facilities, either alone or with Lessor or other lessees, or use other fuel storage facilities at the Airport, without Lessor's prior written consent and an agreement governing the work and use. Lessee may choose, at its sole and absolute expense, to install fuel meters on the dispensing units of the fuel tanks. Such dispensing meters shall not be installed without the prior written approval of the Airport.
- C. In addition, Lessee shall pay a monthly fee to Lessor for the Lease herein granted of two percent (2%) of Lessee's monthly gross revenues derived from all sales, operations, and services made, furnished, or conducted on or from the Leased Premises, Ramp, and Fuel Tanks, with the exception of revenue derived from the sale and dispensing of aviation fuel. Lessee shall file with Pueblo Memorial Airport monthly activity reports on or before the tenth (10th) day of each calendar month throughout the effective term indicating gross revenues and commissions derived from activity on any part of the Airport.
- D. The rents for land, structures, and the Ramp shall be increased biennially based upon the consumer price index for all urban consumers, CPI-U (all items 1982-1984=100) or comparable index if the Department of Labor changes or modifies the CPI-U or no longer publishes the CPI-U. The rents shall be increased by a percentage equal to the percentage increase in the CPI-U during each preceding two-year period over the comparable CPI-U for the first month of each 2-year

period. If there is no percentage increase in the CPI-U for any preceding 2-year period, the rents will remain the same as the preceding 2-year period for the next 2-year period. In no event, shall the percentage increase for the rents be greater than five percent (5%) for any 2-year period.

- E. At the option of the Lessor, the monthly fuel flow fee may be increased by up to three cents (\$0.03) every four (4) years, the first increase being available and effective in 2024 immediately upon expiration or termination of Lessee's now current Domestic-Into-Plane Purchase Program contract with the Defense Logistics Agency – Energy ("DLA Energy"), and every four (4) years thereafter. Any increase in the fuel flow fee shall not take effect until the then current Domestic-Into-Plane Purchase Program contract with DLA Energy entered into by Lessee expires or terminates after its four (4) year term. Notwithstanding the foregoing, in no event may any increase in fees be deferred for more than one calendar year from whenever such an increase would normally become available, where Lessor may increase the fee after the additional calendar year if the Domestic-Into-Plane Purchase Program contract is extended or otherwise modified to continue after its standard four (4) year period. Such a deferral shall not otherwise alter when a fee increase becomes available.
- F. The Lessee hereby agrees to pay when due all rent, fees, and charges imposed by the Lessor for the use and operation of the Airport. The fees and charges include, but are not limited to, fuel flowage fees, landing fees, permit fees, security charges, and administrative or service fees.
- G. Such rents shall be paid monthly without notice, offset, or deduction on or before the tenth (10th) of the month, and fees shall be paid monthly without notice, offset, or deduction on or before the tenth (10th) of the following month, at the City of Pueblo Director of Aviation's office and shall be accompanied with such reporting forms as the Director of Finance shall determine. Rent not paid by the tenth (10th) of the month shall accrue a late fee of eight percent (8%) per month. Lessor shall have the right to examine and audit Lessee's and its subtenant's books and records to determine the accuracy of the numbers of gallons sold and the revenues derived by Lessee, fees, and their calculation.

4. **Deposit:**

- A. Lessee agrees to pay a security deposit to the Lessor equal to one month's rent of \$10,648.80. The security deposit and first month's rent shall be paid immediately upon execution of this agreement. Deposit shall be refunded following termination of this agreement, less any rent due or damages to the Leased Premises, Ramp, or Fuel Tanks.
- B. In the event that Lessee fails, neglects, or refuses to pay any rent, fee, or other sum due, or fails to perform any obligation under this Lease, then Lessor may, in its sole and absolute discretion, draw from the security deposit to remedy Lessee's default. Nothing contained in this Lease shall require Lessor to remedy Lessee's default in this manner, and Lessor may instead, in its sole and absolute discretion, refuse to

remedy Lessee's default by drawing on the security deposit, and instead pursue the remedies for default provided in this Lease or by law.

- C. In the event that Lessor draws from this security deposit to remedy Lessee's default, Lessor shall notify Lessee in writing and require Lessee to replenish the deposit to its original level. Failure of Lessee to comply with this section shall constitute a material breach of this Lease.

5. Use of Leased Premises:

- A. The Leased Premises shall be used and occupied by Lessee as a full service fixed base operator and facility for the sale of aviation fuel and other related aeronautical services and products. The office areas shall be used for Lessee's business, flight preparation, and other incidental office work. The Leased Premises shall not be used for the storage of non-aeronautical personal property, living accommodations, or in any other way inconsistent with this Lease. Failure to abide by this provision shall constitute a material breach of this Lease.
- B. All aircraft stored on the Leased Premises for more than seven (7) days must be reported to Airport administration. Lessee may perform maintenance and repairs to aircraft in accordance with the Airport's minimum standards, including routine maintenance, preventative maintenance, and regular maintenance required prior to flight. Lessee may wash aircraft within the Leased Premises but shall at all times protect the Lessor's stormwater system and abide by any requirements Lessor places on Lessee with regards to the cleaning of aircraft, including for the disposal of used water and other products.
- C. Lessor retains and Lessee grants to the Lessor the right to enter the Leased Premises to do what is necessary for the purposes of repairing, replacing, and/or maintaining any and all utility lines under the Leased Premises which serve other uses at the Pueblo Memorial Airport, it being understood that the Lessor will repair, in a good and workmanlike fashion, any and all damage done to the Leased Premises as the result of work done hereunder.
- D. Lessee shall maintain the Leased Premises, Ramp, and Fuel Tanks in accordance with the requirements and regulations of the Lessor and Lessor's fire code. The Lessee shall be responsible for all costs, fees, charges, and penalties associated with the discharge or release of any hazardous material (including petroleum products) or mitigating the containment or removal of any contamination or hazardous material (including petroleum products) on, over, or under the Leased Premises, Ramp, and Fuel Tanks which is caused by the Lessee, its officers, agents, or employees. The storage and accumulation of aviation fuel, flammables, explosive liquids, or solids, waste, debris, or other hazardous materials within or on the Leased Premises, Ramp, and Fuel Tanks shall be in an environmentally sound manner and comply with all federal, state, and local laws and regulations. Lessee agrees that no flammable liquids or hazardous materials shall be used or stored on the Leased Premises or Ramp, excepting those used in accordance with all laws and regulations and in the

furtherance of Lessee's authorized use of the leased premises, to include, but not limited to, the fuel in the Fuel Tanks, the aircraft fuel tanks, or in the tank of a stored automobile, properly parked. Lessee agrees to provide drip pans of a non-flammable material under aircraft to prevent damage to the floor, should any aircraft leak any fluids.

- E. Lessee, at its sole cost and expense, may cause to be constructed and installed upon the Leased Premises and Fuel Tanks additional improvements in accordance with plans and specification approved by Lessor, including architectural approval, which consent will not be unreasonably withheld or arbitrarily denied. The improvements shall be constructed in a good and workmanlike manner in accordance with the applicable laws, ordinances, and building codes and pursuant to a building permit issued by the Regional Building Department. Lessee will not modify, alter, or improve any structure or improvements upon the Leased Premises whether now existing or hereafter constructed without the prior written approval of Lessor, which approval shall not be unreasonably or arbitrarily denied. Lessee may paint any improvements upon the Leased Premises and the Fuels Tanks with the approval of Lessor.
- F. Lessee shall not park or leave, or allow to be parked or left, aircraft on the taxiways or on pavement adjacent to the Leased Premises, Ramp, or Fuel Tanks in a manner which interferes with or obstructs access to adjacent hangars or public areas. Parking of automobiles will be permitted only in designated spaces outside of the airport fence. No person or public roadway going automobile shall go beyond the immediate vicinity of the Leased Premises without the express written consent of the Director of Aviation. Automobiles must be parked in designated parking spaces or within the Hangar, except that the Hangar cannot be used solely for storage of automobiles. Nothing in this agreement provides exclusive access to the entrance and exit gates into and out of the Airport to Lessee.
- G. Lessee, its employees, and invitees shall have the right of ingress and egress between designated Airport access points and the Leased Premises over, upon, and through such streets and not others as from time to time shall be designated by the Director of Aviation. Driveways from existing streets into the Leased Premises shall be located as designated by the Lessor through the Director of Aviation.
- H. Hangar doors shall remain closed and locked except during periods when the Hangar is attended by Lessee. This is to prevent damage from sudden storms and the creation of foreign object debris.
- I. On the Effective Date and annually thereafter, Lessee shall provide Lessor with a list of the Airport areas and any Airport tenants it intends to access when

providing services. Lessee shall keep this list current and report any changes to the Lessor upon such change being made.

- J. Lessee shall not have exclusive use of any area of the Airport or of any Lessor equipment, unless Lessee contracts with Lessor for such use, and all such uses shall be as determined by the Director of Aviation in his or her sole discretion. All areas of the Airport and all Airport equipment will be inspected by Airport staff prior to use by Lessee, and Lessee shall be required to sign-off on Airport staff's inspection prior to said use.
- K. Lessee acknowledges and agrees that Lessor's primary obligation is to operate the Airport for the use and benefit of the public and that the leased premises and ramp are prime locations for full service fixed-based operations at the Airport. Therefore, in view of the foregoing and long-term nature of this Lease, Lessee and Lessor shall meet at least annually to discuss Lessee's plans for the development and use of the Leased Premises, Ramp, and Fuel Tanks and the types, kinds, and classes of aeronautical activities then reasonably anticipated to be provided in the future, and Lessee's planned additions to and/or modifications of the Leased Premises and Fuel Tanks.

6. Ramp Use:

- A. Lessee's use of the common ramp area, taxiways, and runways is non-exclusive and same may be used by the Airport, other tenants, users, and occupants of the Airport ("Airport Users"). Use of the Ramp shall be limited to the movement of aircraft, fueling of aircraft, movement, and parking of aircraft service vehicles, temporary parking of aircraft, servicing, and tie-down of aircraft. Lessee shall not use common area ramp space for the fueling of aircraft, temporary parking of aircraft, servicing and tie-down of aircraft, parking or storage of aircraft service vehicles, or any other purpose without the prior express written consent of the City of Pueblo. If Lessee collects a fee for any use of common areas at the Airport, it shall pay to Lessor as commission ten percent (10%) of said fees.
- B. Lessee shall use the Ramp and common ramp area in compliance with Lessor's ground traffic and aircraft parking plans and regulations, which will reasonably accommodate Lessee's current and future use for the purposes set forth in this Lease.
- C. Lessee acknowledges that portions of the Ramp, common ramp area, taxiways, and runways are currently in need of repairs and resurfacing and accept in whole the Ramp, common ramp area, taxiways, and runways in their present condition "AS IS" and "WITH ALL ITS FAULTS," without warranty or representation, express or implied, including, without limitation, any warranties of

merchantability or fitness for a particular purpose or condition or usability in their present condition. Lessee agrees that Lessor shall have no obligation to upgrade, repair, resurface, or maintain the Ramp, common ramp area, taxiways, and runways. Lessor maintains the right to close any portion of the Airport not limiting Lessee's access to airport runways.

- D. Lessee shall maintain the surface of the Ramp free and clear of debris, snow, sand, and ice and shall be responsible to remove same from the Ramp as soon as reasonably possible in order for the Ramp to be continuously available for use.

7. Fuel Tank Use:

- A. The Fuel Tanks and accessory equipment, including, but not limited to, pumps, motors, and fuel meter calibrations for each tank, are being leased "AS IS" "WITH ALL ITS FAULTS," without warranty or representation, express or implied, including, but not limited to, any warranties of merchantability or fitness for a particular purpose or condition or usability in their present condition.
- B. Lessor has registered the above ground storage tanks located in its fuel farm with the Director of the Colorado Division of Oil and Public Safety pursuant to C.R.S. 8-20-.5-105 and updated its Spill Prevention Control and Countermeasure ("SPCC") Plan as required by law. Lessor shall continue to maintain compliance with those requirements.
- C. Lessee shall be responsible for quality control of fuel, loading and unloading fuel to and from the Fuel Tanks, and compliance with the SPCC Plan for the fuel farm and leased fuel tanks. Lessee shall properly train its employees in the use of the fuel farm, Fuel Tanks, and the SPCC Plan.
- D. Except for structural repairs not caused by the acts or omissions of Lessee, its officers, agents, employees, contractors, or fuel suppliers, Lessee shall be responsible to maintain and keep in good and safe repair and working condition the Fuel Tanks and accessory equipment, ordinary wear and tear excepted. Lessee will not be responsible for any reconstruction, remodeling, alteration, or modification of the fuel tanks of the fuel farm required to meet environmental standards not currently satisfied, unless caused by the acts or omissions of Lessee, its officers, agents, employees, contractors, or fuel suppliers.

If any such activity is required by the Lessor or if Lessor is required to make structural or other repairs to or replace the Fuel Tanks or any other fuel tanks located at the fuel farm for any reason, including fire or other casualty, or if Lessor is required to remediate or remove any contamination or hazardous materials

(including petroleum products) at or from the fuel farm, Lessor may, at its sole option, either (1) complete, at its cost, the required activities, replacement, or repairs, (2) negotiate a cost-sharing arrangement with Lessee to complete the required activities, replacement, and repairs, or (3) upon thirty (30) days prior written notice, terminate the Fuel Tanks lease and Lessee's right to store aviation fuel in the Fuel Tanks. In the event the Lessor terminates the fuel tanks lease as provided in (3) above, Lessor will, at the request of Lessee, negotiate in good faith with Lessee to lease sufficient land to construct and operate its own farm storage facilities for its own use at a location mutually agreeable to Lessor and Lessee.

E. Lessee shall:

- (1) Maintain fuel meter calibration on the fuel tanks and provide required testing and copies thereof to the Lessor.
- (2) Provide filters, hoses, and nozzles required for the Fuel Tanks.
- (3) Immediately notify the Lessor of any fuel release or spills during the loading or unloading of the fuel storage tanks or when fueling or maintaining aircraft. Lessee shall be responsible for clean up to the satisfaction of Lessor of any such fuel releases or spills whether caused by Lessee, its officers, agents, employees, contractors, or fuel suppliers.

F. Lessee's mobile refuelers (fuel trucks) and Lessee's use thereof shall meet and comply with all applicable EPA spill prevention control and countermeasure regulations including, if required, drafting and implementing an SPCC Plan therefor.

G. At the time of the signing of this Lease, the fuel tanks 40-1 and 40-3a each need a significant capital expenditure to bring them to an operational state and all Fuel Tanks need Skully Systems installed. More specifically, the fuel tanks need the following repairs:

a. Tank 40-1 needs:

- i. Hose replacement;
- ii. Single point installation;
- iii. Filter change;
- iv. Water slug valve installation;
- v. Deadman installation;
- vi. Filter diff gauge installation; and
- vii. Relief valve installation.

b. Tank 40-3a needs:

- i. Water slub valve repair;
- ii. Relieve valve repair;
- iii. Filter diff gauge repair; and

iv. Deadman installation.

In exchange for Lessee's use of the Fuel Tanks however it sees fit to meet its operational needs but subject to this Lease, Lessee agrees to expend the funds necessary to make all leased Fuel Tanks operational by completing the above listed repairs, installing Skully Systems, and making other repairs and installations directed by Lessor. Once the Fuel Tanks are made operational and compliant with law, all remaining expenditures for maintenance and repair of the Fuel Tanks will be in accordance with the remaining terms of this Lease. After ten (10) years from the Effective Date, if any of the Fuel Tanks have not been used to store fuel within the preceding six (6) months, the parties may negotiate a monthly rent for the lease of unused fuel tanks.

8. **Maintenance Obligations:**

- A. Lessee shall, at its own expense, keep the premises neat, clean, safe, and orderly at all times, free of waste, rubbish, and debris, and shall provide a complete and proper arrangement for the sanitary handling and disposal of all trash, garbage, and other refuse resulting from Lessee's activities at the Airport. No outside storage of parts, materials, equipment, inventory, or other materials shall be permitted.
- B. Lessee will at all times, at its sole cost and expense, keep and maintain in good repair the interior of all buildings and grounds designated for the Lessee's exclusive use. The maintenance of the interior of the Leased Premises shall include, but not be limited to, the hangar door and the operation thereof, other entry/exit doors, ventilation filters, sprinkler systems, all interior walls, interior ceilings, floors/floor coverings, wiring, plumbing fixtures, and other interior utility fixtures. However, the Lessee's obligation for the maintenance of the exterior of the Leased Premises shall not include any repairs or replacement of the roof, foundation, or exterior walls. Lessee shall perform routine service and maintenance on all heating and air conditioning equipment and appurtenances thereto, except to the extent such repairs are occasioned by the negligence or fault of the Lessor. At the termination of the Lease, or any extension thereof, Lessee shall return the Leased Premises to the Lessor in good order and condition, ordinary wear and tear excepted.
- C. Lessee, at its sole cost and discretion, shall maintain all walkways, sidewalks, and apron access on the Leased Premises and Fuel Tanks, including to the public taxiway or ramp area. This includes pavement maintenance, pest control, and other such activities necessary to access said areas. At no time shall snow, dirt, or other debris be piled or stored on these areas. It is the Lessee's responsibility to keep these areas free and clear of all snow, dirt, and other debris. Lessee understands that snow removal within six (6) feet of the Leased Premises, Ramp, and Fuel Tanks is always the responsibility of Lessee. However, Lessor, at its sole cost and discretion, shall be responsible for all major repairs of the public areas.

9. **Utility Costs:**

Lessee shall be responsible for all utilities supplied to the Leased Premises, Ramp, and Fuel Tanks. Agreements for service with utility providers are the responsibility of Lessee. Additions, deletions, or adjustments to utilities extended to the Leased Premises shall not be made without prior written approval from the Director of Aviation.

10. Signs:

Lessee shall not erect, paint, or maintain any signs whatsoever upon the Leased Premises, Ramp, or Fuel Tanks without first securing the written consent of the Lessor. Any such signs shall comply with all ordinances and regulations of the Lessor and standards which might be developed by the Department of Aviation. All worn, faded, damaged, or outdated signs will be repaired or corrected by Lessee upon notice from the Director of Aviation.

11. Right of Inspection:

The Lessor reserves and retains for its officers, employees, and authorized representatives the right to enter the Leased Premises, Ramp, and Fuel Tanks during reasonable business hours, and after prior notice, for the purpose of inspecting and protecting the Leased Premises, Ramp, and Fuel Tanks and for doing any and all things which the Lessor may deem necessary for the proper general conduct and operation of the Pueblo Memorial Airport and in the exercise of the Lessor's police power.

12. Title to Improvements:

- A. All structures and improvements constructed or erected by Flower on the Leased Premises and Fuel Tanks, excluding movable trade fixtures, constitute a part of the Leased Premises and Fuel Tanks and may not be removed from the land. Flower and Lessee acknowledge and agree that fee simple title to these structures and improvements vested in Lessor immediately upon completion of construction of same, free of all liens and encumbrances. Notwithstanding the foregoing, Lessor shall not be responsible for any defects in the Leased Premises, Fuel Tanks, structures, or improvements and shall have no obligation or responsibility to maintain, repair, or restore the same; all such obligation and responsibility shall be held by Lessee.
- B. The structures leased to Lessee hereunder and any improvements constructed or erected hereunder by Lessee, excluding movable trade fixtures, shall constitute a part of the Leased Premises and Fuel Tanks and therefore such structures and improvements cannot be removed from the land. Fee simple title to the structures are in the Lessor and fee simple title to subsequently constructed improvements shall vest with Lessor immediately upon completion of construction of same, free of all liens and encumbrances. Notwithstanding that title is in or vests in Lessor, Lessor shall not be responsible for any defects in the Leased Premises, Fuel Tanks, structures, or improvements and shall have no obligation or responsibility to maintain, repair, or restore the same; all such obligation and responsibility shall be that of Lessee.

13. Taxes, Licenses, and Liens:

- A. Lessee covenants and agrees to pay promptly when due all taxes, fees, licenses, and other governmental charges of whatever nature assessed against or applicable to Lessee, the Leased Premises, Ramp, and Fuel Tanks, or to Lessee's property and operations thereon. Possessory interest tax is assessed by the County of Pueblo and is the responsibility of the Lessee. The Lessor is a tax-exempt entity and shall not be liable for any tax of the Lessee. All applicable taxes and costs shall be paid by Lessee, even if Lessee was unaware of such taxes and costs.
- B. At all times during the term of this Lease, and of any renewal or extension hereof, Lessee shall, at its own cost and expense, provide and keep in good standing business licenses with the City of Pueblo and the State of Colorado. Lessee shall obtain and maintain any other licenses or certifications required by law, including those required by the FAA. Upon request, Lessee will provide Lessor with certificates of good standing evidencing that all licenses or certifications are current and not subject to discipline.
- C. Lessee also covenants and agrees not to permit any mechanic's or material man's lien to be filed against the Leased Premises, Ramp, or Fuel Tanks or any part or parcel thereof by reason of any work or labor performed or materials furnished by any contractor, subcontractor, mechanic, or material man. Lessee further covenants and agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations on the Leased Premises, Ramp, and Fuel Tanks, and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment, or execution to be filed against the Leased Premises without the Lessor's prior consent which will not be unreasonably withheld, except that in no instance will the lien, mortgage, judgment, or execution be in any way an impairment of the rights of Lessor.
- D. Lessees performing services using Airport Operations Areas ("AOA") must annually undergo American Association of Airport Executives ("AAAE") Airport News Training Network ("ANTN") Digicast Signatory Training and hold a current signatory certificate that must be filed yearly with Airport Administration. Such Lessees shall keep a record of all documentation related to badging and produce it upon request.

14. Indemnification:

Lessee assumes the risk of loss or damage to the Leased Premises, Ramp, and Fuel Tanks and property thereon and therein, including but not limited to aircraft and personal property, whether from windstorm, fire, earthquake, snow, water run-off, or any other causes whatsoever except for loss or damage caused by the gross negligence and/or willful misconduct of Lessor, its agents, officer, representatives, and employees. Lessee covenants and agrees to indemnify, defend, and save the Lessor, its agents, officer, representatives, and employees, harmless from and against any and all penalties, liability, or loss, including costs and attorney fees and all expenses incurred by Lessor in investigating or resisting the same, resulting from claims or court action, whether civil, criminal, or in equity, and arising directly or indirectly out of: (i) acts of the Lessee, its agents, employees, or representatives;

(ii) occurring in on or about the Leased Premises, Ramp, or Fuel Tanks; (iii) arising out of or resulting from the Leased Premises, Ramp, or Fuel Tanks, or any condition thereon, or from Lessee's use and occupancy of the Leased Premises, Ramp, or Fuel Tanks, or any equipment thereon or appurtenances thereto, or any activity conducted therein; or (iv) through any injury or damage that may be caused or occasioned. Except, Lessee is not required to indemnify, defend and save Lessor, its agents, officer, representatives, and employees from any and all penalties, liability, or loss, including costs and attorney fees and all expenses incurred by Lessor in investigating or resisting the same, resulting from claims or court action, whether civil, criminal, or in equity, and arising directly or indirectly out of Lessor's gross negligence or willful misconduct. Lessee shall not hold or attempt to hold Lessor liable for any injury, including loss of life, to any person, or for damage to any property while on the Leased Premises, Ramp, or Fuel Tanks or the Airport, irrespective of how such injury or damage may be caused or occasioned, unless that injury, including loss of life, to any person, or for damage to any property is caused by the gross negligence or willful misconduct of Lessor, its agents, officer, representatives, and employees. However, nothing herein shall limit the applicability of the Colorado Governmental Immunity Act or other law limiting the Lessor's liability. The provisions of this Section 14 shall survive the termination of this Lease.

15. Insurance and Damage:

- A. Lessee assumes all risk of loss, damage, injury and liability for the same that may occur to Lessee, Lessee's guests, Lessee's aircraft and Lessee's improvements and property in or upon the Leased Premises, Ramp, and Fuel Tanks and Lessor shall not be liable or responsible for any such loss, damage or injury, regardless of the cause thereof, except any loss, damage, injury and liability for the same that may occur to Lessee, Lessee's guests, Lessee's aircraft and Lessee's improvements and property in or upon the Leased Premises, Ramp, and Fuel Tanks caused by the gross negligence or willful misconduct of Lessor, its agents, officer, representatives, and employees.
- B. Lessor shall maintain storage tank pollution liability insurance covering the Fuel Tanks located within the fuel farm which are being used by Lessee. This policy shall name Lessee as an additional insured and loss payee for the policy and waive subrogation. So long as Lessee uses the Fuel Tanks for storage of aviation fuel, Lessee shall pay annually to Lessor, on the anniversary dates of the Commencement Date, a proportional share of Lessor's cost for storage tank pollution liability insurance. Lessee's portion of such charges shall be the ratio of the gallon capacity of Fuel Tanks Lessee leases hereunder compared to the total gallon capacity of the fuel tanks in Lessor's fuel farm being used by Lessor, Lessee, and other parties.
- C. Lessee, at its sole cost and expense, shall, during the life of this agreement, procure, pay for and keep in full force and affect the following types of insurance:
 - (1) Aviation General Liability Insurance: A comprehensive policy of aviation general liability insurance, including but not limited to personal injury, products liability, hangar keepers' liability, and property damage. The policy shall have limits in an amount of not less than One Million Dollars

(\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate. Such coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Leased Premises, Ramp, and Fuel Tanks (including acts or omissions of the Lessee).

- (2) Automobile Insurance: At all times during the term of this Lease, and any renewal or extension hereof, Lessee shall, at its own cost and expense, provide, and keep in force commercial automobile liability insurance with a combined single limit for all owned, hired, and non-owned autos of not less than one million dollars (\$1,000,000.00).
- (3) Workers Compensation Insurance: Lessee shall obtain statutory workers' compensation insurance which shall contain an endorsement waiving subrogation against the City of Pueblo. Such insurance shall cover all employees and agents of Lessee performing work at the Leased Premises or Airport irrespective of whether such employees may be shareholders, managers, partners, or owners of Lessee or exempt employees under the Act. Any independent contractors of Lessee shall be covered under Lessee's workers' compensation insurance and/or participant accident insurance policy or show evidence that said independent contractor is covered under its own workers' compensation insurance policy. Lessee shall have full and sole responsibility for ensuring compliance with this Section, including without limitation indemnification required under this Lease. All insurance policies required hereunder shall provide that such policies not be cancelled or reduced without thirty (30) days' advance written notice to the Lessor.
- (4) Storage Tank Pollution Liability Insurance: Lessee shall maintain storage tank pollution liability insurance covering the Fuel Tanks located within the fuel farm which are being used by Lessee. This policy shall name Lessor as an additional insured and loss payee for the policy and waive subrogation.

D. Lessee shall insure the structures and other improvements, except fuel tanks, in an amount equal to their full insurable value naming Lessor as a loss payee. These policies shall name the City of Pueblo as additional insured and loss payee for the policy and waive subrogation. The policies shall contain a provision that the policy cannot be canceled or materially altered either by the insured or the insurance company unless thirty (30) days prior written notice thereof is given to the Lessee and Lessor. Upon issuance or renewal of any such insurance policy, the Lessee shall furnish to the Lessor a certificate of insurance evidencing coverage required under this contract.

E. If the structures or other improvements (the "Improvements"), except for the fuel tanks, are damaged or destroyed by fire or other casualty, Lessee shall within one hundred twenty (120) days from the occurrence of such casualty either (1) repair and restore the damaged or destroyed Improvements, (2) demolish the damaged or

destroyed Improvements, restore the Leased Premises to their original condition, and terminate this Lease, in which event the net proceeds of the property damage insurance required to be provided by Lessee shall be retained by Lessor, or (3) demolish the damaged or destroyed Improvements and commence construction of replacement Improvements, and thereafter complete such construction as soon as practicable, but at least within eighteen (18) months from the occurrence of such casualty, unless Lessor approves additional time which shall not be unreasonably withheld. All repairs to or restoration of Improvements and/or construction of replacement Improvements shall be in compliance with applicable laws and codes, and in accordance with plans and specifications therefor approved by Lessor, which approval will not be unreasonably withheld. Except in the event of (2) above, the net proceeds of property damage insurance provided by Lessee shall be released by Lessor and paid to Lessee for the purpose of Lessee repairing, restoring, or replacing improvements damaged or destroyed by such insured fire or other casualty.

- F. Lessee shall not violate the terms or prohibitions of any insurance policy herein required to be furnished by Lessee. Coverage and limits enumerated in this insurance section represent only the minimum insurance required, and Lessee should rely on its expertise to obtain any additional insurance coverage needed for the Lessor and Lessee in its performance under this Lease. Failure of Lessee to comply with the provisions of this section shall constitute a material breach of this Lease.

16. Waivers and Holdovers:

No provision of this Lease may be waived except by an agreement signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision. Should Lessee holdover the use of or continue to occupy the Leased Premises after the termination or cancellation of this Lease, such holding over shall be deemed merely a tenancy for successive monthly terms upon the same conditions as provided in this Lease subject to termination upon thirty (30) days prior written notice.

17. Inconvenience During Construction:

Lessee recognizes that from time to time it will be necessary for the Lessor to initiate and carry forward programs of construction, reconstruction, expansion, relocation, maintenance, and repair at and to the Airport in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience or interrupt Lessee's operations at the Airport. Lessee agrees that no liability shall attach to Lessor, its officers, agents, employees, contractors, subcontractors, and representatives by reason of such inconvenience or interruption, and for and in further consideration of the premises, Lessee waives any right to claim damages or other consideration therefore, provided, however, that this waiver shall not extend to, or be construed to be a waiver of, any claim for physical damage to property resulting from willful misconduct of the Lessor, its officers, agents, employees, contractors, subcontractors, and representatives. The Lessee shall be obligated to be pay all

rent and fulfill all obligations of this Lease at all times, including, but not limited to, when access to the Airport is temporarily restricted due to routine construction, reconstruction, expansion, or other potential alteration of the airfield.

18. Place and Manner of Payments:

In all cases where Lessee is required by this Lease to pay any rentals, rates, fees or other charges or to make other payments to Lessor, such payments shall be made at the Department of Aviation, or at such other place as Lessor may hereafter designate by notice in writing to Lessee and shall be made in legal tender of the United States and any check shall be received by Lessor subject to collection. Lessee agrees to pay any bank charges made for the collection of any such checks. All payments of rent shall be made on the first of each month.

19. Assignments and Subletting:

- A. Lessee may not assign this Lease, in whole or in part, without the written consent of Lessor which may be granted or denied in its sole and absolute discretion, except that Lessee may assign this Lease to a successor legal entity which has merged with, or acquired substantially all the assets of the Lessee, if such successor legal entity should specifically agree in writing to perform this Lease, unless Lessor determines in its sole and absolute discretion based upon written information supplied to Lessor by Lessee at least sixty (60) days prior to the effective date of the assignment that the successor legal entity does not have the ability to fulfill the obligations of this Lease in a competent or financially responsible manner. Failure of Lessee to provide adequate written information concerning subtenants is sufficient for Lessor to make such determination and shall be, in and of itself, a sufficient basis for the Lessor to deny its consent to any proposed assignment.
- B. Lessee, with the prior written consent of Lessor, the consent of which may be granted or denied in Lessor's sole and absolute discretion, may sublet a portion of the Leased Premises to a subtenant or subtenants ("Subtenant") pursuant to a written sublease, which shall contain among other provisions the following:
 - (1) The sublease must be subject to and governed by all of the covenants and provisions of this Lease. Subtenant must abide by all of the terms and conditions thereof applicable to the Leased Premises, Ramp, and Fuel Tanks and use thereof. The sublease may only be for a lesser term than specified in Section 2.
 - (2) The Subtenant shall maintain and keep in force aviation general liability insurance as described in Section 15.C. with a combined single limit not less than one million dollars (\$1,000,000). Such insurance requirement will be satisfied if Subtenant is provided with coverage under Lessee's master liability insurance policy.
 - (3) The sublease must contain an Indemnification provision, substantially the same as set forth in Section 14 hereof, indemnifying Lessor.

- (4) The sublease shall not become effective until an executed copy thereof is delivered to Lessor's Department of Aviation.

C. Subtenants for Hangaring of Aircraft: Lessee may, upon notice to Lessor but without Lessor's prior written consent, sublet to an entity or person sufficient hangar space to hangar the Sublessee's aircraft and any needed office space to perform Subtenant's aircraft operations pursuant to a template sublease agreement ("Template Agreement") that was prior approved by Lessor. Should Lessee wish to sublease a portion of the Leased Premises other than through a Template Agreement, it must obtain Lessor prior written approval in accordance with Section 19.B. above. All Subtenants intending to conduct business at the Airport must first obtain a commercial permit from the Director of Aviation. Upon entering into a sublease with a Subtenant, Lessee will provide written notice to Lessor that includes the name, address, tail number, aircraft model, length of term of sublease, and a copy of the sublease.

20. Agreements with United States:

This Lease is subject and subordinate to the terms, reservations, restrictions, provisions, and conditions of the deed of conveyance from the United States Government to the Lessor and of any other existing or future agreement between the Lessor and the United States, relative to the use, operation, or maintenance of the Pueblo Memorial Airport and its appurtenant facilities; the execution of which has been or may be required as a condition precedent to the participation by any Federal Agency in the extension, expansions, or development of said Airport and its facilities.

21. Lessee's Default:

- A. Any one of the following shall constitute an event of default by Lessee hereunder:
- (1) Failure of Lessee to pay in full all installments of rent, fees, additional rent, or pro rata portion of fuel farm insurance due by the first day of each month or immediately after written notice and demand therefor are given by Lessor to Lessee.
 - (2) Failure of Lessee to perform or comply with any obligation, covenant, or agreement of Lessee hereunder other than payment of money for a period of fourteen (14) days after written notice specifying such failure is given by Lessor to Lessee, except that if such obligation, covenant, or agreement is not capable of being performed within said fourteen (14) day period, Lessee shall not be in default if Lessee shall commence such performance within said fourteen (14) day period and thereafter prosecute the same with diligence and continuity to completion.
- B. Lessee shall have thirty (30) days to cure any default. In the case of a continuing event of default by Lessee, Lessor shall have the following remedies in addition to

all other rights and remedies provided by law or in equity, including without limitation, damages and specific performance:

- (1) Terminate this Lease by sixty (60) days prior written notice given to Lessee specifying the date of termination, and Lessee shall within said sixty (60) day period vacate the Leased Premises, Ramp, and Fuel Tanks and surrender possession thereof to Lessor.
 - (2) Without terminating this Lease, retake possession of the leased areas and relet the same or any part thereof for such term or terms and upon such other conditions as Lessee in its reasonable judgment shall determine. If the rent, fees, and other charges are less than those provided for herein, Lessee shall be responsible and liable for any deficiency between the amount of the rent, fees and charges provided for herein and those received through such reletting. Lessor shall not be responsible or liable for any failure to relet the leased premises or any part thereof, or failure to collect any rent, fees, or other charges due upon such reletting. No notices from Lessor hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. Lessor reserves the right following any such reentry and/or reletting to exercise its right to terminate this Lease as provided in Section 21.B.(1) above.
- C. If the Lessee shall be declared insolvent or bankrupt, or if any assignment of the Lessee's property shall be made for the benefit of creditors or otherwise, or if Lessee's leasehold interest herein shall be levied upon under execution, or seized by virtue of any writ of any Court of Law, or a Trustee in Bankruptcy or a Receiver appointed for the property of the Lessee, whether under the operation of the State or the Federal statutes, then and in any such case, the Lessor may, at his option, immediately with or without notice, notice being expressly waived, terminate this Lease and immediately retake possession of the Leased Premises without the same working any forfeiture of any accrued obligations of the Lessee hereunder.
- D. After the expiration of this Lease or any violation of any term or provision as herein provided for, if Lessee shall refuse to surrender and deliver possession of the Leased Premises after notice of termination, then in that event Lessor may, without further notice or demand, enter into and upon said premises, or any part thereof, and take possession thereof and repossess them, and expel, remove, and put out of possession the Lessee, using such help, assistance and force in so doing as may be needful and proper, without prejudice to any remedy allowed by law, available in such cases.
- E. That in case the Leased Premises are left vacant and any part of the rent herein reserved be due and unpaid, then the Lessor may, without in anyway being obligated to do so, and without terminating this Lease, retake possession of said premises and rent the same for such rent, and upon such conditions as the Lessor may think best, making such changes and repairs as may be required, giving credit for the amount of rent so received less all expenses of such changes and repairs,

and said Lessee shall be liable for the balance of the rent herein reserved until the expiration of this Lease.

- F. Lessee agrees to pay the Lessor all costs, including reasonable attorney fees, incurred by Lessor in recovering any rent or other money due and unpaid under the terms of this Lease or to recover possession of the Leased Premises after termination of this Lease.

22. Notices:

All notices, required to be given to Lessor hereunder, shall be in writing and be sent by certified mail to Pueblo Memorial Airport, Administration Office, 31201 Bryan Circle, Pueblo, Colorado 81001 with a copy to City of Pueblo, City Attorney's Office, 1 City Hall Place, Pueblo, Colorado 81003. All notices required to be given to Lessee hereunder shall be in writing and sent by certified mail, addressed to Freeman Holdings of Colorado, LLC, Attn: Scott Freeman, 16221 Foster Street, Overland Park, Kansas 66085, email: sfreeman@pville.com; with a copy to Freeman Holdings Group, Attn: Reese Hays, 16221 Foster Street, Overland Park, Kansas 66085, email: rhays@freemanholdingsgroup.com, provided that the parties, or either of them, may designate in writing from time to time subsequent or supplementary persons or address in connection with said notices. The effective date or service of any such notice shall be the date such notice is mailed by Lessee or Lessor.

23. Environmental Provisions:

- A. For the purpose of this Lease, "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local government authority, the State of Colorado, or the United States government and shall include, but not be limited to: (i) substances defined as "hazardous waste," "restricted hazardous waste," "hazardous substance" or "hazardous material" under any applicable federal, state, or local law or regulation (Environmental Regulations); (ii) asbestos-containing materials; (iii) PCBs; (iv) petroleum or petroleum based products; and (v) lead.
- B. Lessee will comply with Environmental Regulations that are applicable to Lessee and its use of the Leased Premises, Ramp, and Fuel Tanks. No activity shall be undertaken by Lessee, its guests, employees, agents, contractors, or subcontractors, on all or any portion of the Leased Premises, Ramp, and Fuel Tanks which would cause or permit: (i) the presence, use, generation, release, discharge, storage or disposal of any Hazardous Material in, on, under, about, or from the Leased Premises, Ramp, and Fuel Tanks or any part thereof in violation of any Environmental Regulations; (ii) any portion of the Leased Premises, Ramp, and Fuel Tanks to become a hazardous waste treatment, storage or disposal facility without receiving proper governmental authorization, and in compliance with all Environmental Regulations; or (iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions without receiving proper governmental authorization, and in compliance with all Environmental Regulations, including, without limitation, the Federal Water

Pollution Control Act, U.S.C. Section 1251 et seq. and the Clean Air Act, 42 U.S.C. Section 7401 et seq.

- C. Except to the extent Lessor is covered by an insurance policy, Lessee agrees to defend, indemnify, and forever hold harmless Lessor, and its officers, employees, agents, successors, and assigns, from all claims, losses, damages, penalties, expenses and costs, including, but not limited to, attorneys' fees, characterization, remediation and cleanup costs, incurred by reason of the use, storage, generation, release, discharge, maintenance, disposal, or removal of Hazardous Materials in, on, under, about, or from the Leased Premises, Ramp, and Fuel Tanks, or any part thereof, by Lessee, its employees, agents, guests, contractors and subcontractors.

24. Law, Rules and Regulations:

- A. Lessee, its officers, agents, and employees shall faithfully observe and comply with all applicable federal, state, and local laws, regulations, and ordinances now existing or hereafter adopted relating to the use and occupancy of the Airport or Leased Premises, Ramp, and Fuel Tanks, including without limitation Chapter 1 of Title III of the Pueblo Municipal Code and rules affecting the operation of motor vehicles upon, to, and from the Airport. The Lessee, and all officers, agents, and employees of Lessee, hereby agree to be bound by and subject to all police ordinances of the City of Pueblo at all times while on the Airport, whether acting in the course of Lessee's business or otherwise.
- B. Lessee, its officers, agents, and employees shall faithfully observe and comply with all minimum standards and rules regulating operations and activities from and upon the Airport adopted from time to time by Lessor. Such minimum standards and rules shall not be applied arbitrarily, discriminatorily, or unreasonably. If any provision of this Lease shall conflict with any provision of the minimum standards or rules adopted or amended by Lessor after commencement date, the conflicting provision of this Lease shall control.
- C. It is expressly understood by Lessee that security within the air operations area of the Airport is vital. The drive through gate entering the air operations area shall be kept closed and secured at all times except for ingress and egress. Only public road going automobiles under escort will be permitted on the air operations area. Any public road going automobile brought by Lessee shall be the sole responsibility of the Lessee. Violation of airport security rules as now, or in the future may, exist shall be grounds for immediate termination of this Lease.

25. F.A.A. Lease Requirements:

- A. The Lessor reserves the right, without any obligation on its part to do so, to develop, modify, change, improve, or abandon the Pueblo Memorial Airport or any part thereof, as it may determine in its sole discretion, at any time, regardless of the desires or view of Lessee, and without interference or hindrance from Lessee or liability to Lessee.

- B. The Lessor reserves the right, without any obligation on its part to do so, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.
- C. Lessor shall have full and unrestricted right to enter upon those portions of the Airport occupied and leased herein by the Lessee, and Lessor, its agents, or representatives shall be permitted to inspect same during any regular business hours or upon twenty-four (24) hours' notice to Lessee.
- D. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States, relative to the use, development, operation, and maintenance of the Airport.
- E. Lessee shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations with respect to the construction of any structure or building on the Leased Premises, Ramp, and Fuel Tanks, or in the event of any planned modification or alteration of any present or future building or structure on the Leased Premises, Ramp, or Fuel Tanks.
- F. All rights not herein granted to the Lessee are reserved to Lessor and nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 as amended.
- G. Lessor reserves for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises, Ramp, and Fuel Tanks, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation or flight in said airspace, and for use of said airspace for landing on, taking off from, or operations on or over the Pueblo Memorial Airport.
- H. By accepting this Lease, Lessee expressly agrees for itself, its successors, and assigns that it will not erect nor permit the erection of any structure, building, or object nor permit the growth of any tree on the Leased Premises, Ramp, and Fuel Tanks to a height not to exceed twenty-five (25) feet above ground level. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the Leased Premises, Ramp, and Fuel Tanks and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.
- I. Lessee shall not make use of the Leased Premises, Ramp, and Fuel Tanks in any manner which might interfere with the landing and taking off of aircraft at Pueblo Memorial Airport or otherwise constitute a hazard to aviation. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the Leased Premises, Ramp, and Fuel Tanks and cause the abatement of such interference at the expense of the Lessee.

- J. If during the term of this Lease, all or part of the Leased Premises, Ramp, or Fuel Tanks should be taken or threatened to be taken for any public or quasi-public use under any governmental law or by right of eminent domain or sold to the condemning authority under threat of condemnation, this Lease shall terminate and the proceeds, if any, from such taking or sale shall be allocated between Lessor and Lessee in accordance with applicable condemnation law.
- K. Lessor reserves the right to grant and to take easements or rights of way in, under, over, and across the Leased Premises, Ramp, and Fuel Tanks, in which event, Lessee shall only be entitled to compensation for damages to improvements of the Lessee destroyed or damaged thereby, but not to damages for loss of use of the Leased Premises, Ramp, and Fuel Tanks. Lessor will attempt to ensure such easements or rights of way will not impede, prohibit, or infringe upon Lessee's ability to carry out its authorized uses of the Leased Premises, but makes no guarantees as to such.
- L. Lessee agrees to annually complete and submit a Department of Transportation - Federal Aviation Administration Airport Activity Survey (FAA Form 1800-31), as may be amended, that documents Lessee's air taxi-commercial passenger enplanements for each calendar year.
- M. It is not the intent of this Lease to grant to Lessee the exclusive right to provide any or all of the services which Lessee may engage in at any time during the term of this agreement. Accordingly, the Lessor reserves the right, to grant others certain rights and privileges upon the Airport which may be similar in part or in whole to those granted to Lessee, in accordance with any applicable minimum standards and procedures adopted by the Lessor and amended from time to time for the Airport. Nothing herein shall prevent Lessor from entering into leases or subleases with other tenants who may be in competition with the rights and privileges granted to Lessee hereunder.

26. Nondiscrimination Assurances

- A. The Lessee, for itself, its successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises or ramp, for a purpose for which Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lease shall maintain and operate such facilities and services in compliance with all requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as the regulations may be amended.
- B. The Lessee, for itself, its successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
 - (i) no person on the grounds of race, color, religion, sex, sexual orientation, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased

Premises or ramp; (ii) that in construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, sexual orientation, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) that the Lessee shall use the Leased Premises and ramp in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, and as the regulations may be amended.

- C. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, religion, disability, national origin, sex, or sexual orientation be excluded from participating in any contracting, leasing, or employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded, on these grounds, from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
- D. Lessee agrees to operate the Leased Premises, Ramp, and Fuel Tanks for the use and benefit of the public and to furnish good, prompt and efficient services adequate to meet all the demands for its services at the Airport, to furnish service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit of service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- E. Notwithstanding anything contained herein that may be or appear to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and the Lessor reserves the right to grant similar privileges to another operator or operators on other parts of the Airport. It is not the intent of the Lease to grant to Lessee the exclusive right to provide any or all of the services Lessee may engage in at any time during the term of the Lease. Accordingly:
 - (1) Lessor reserves the right, to grant others certain rights and privileges upon the Airport which may be similar in part or in whole to those granted to Lessee, in accordance with any applicable minimum standards and procedures adopted by Lessor and amended from time to time.
 - (2) Nothing shall prevent Lessor from entering into leases or subleases with other tenants who may be in competition with the rights and privileges granted to Lessee hereunder. However, the Lessor agrees not to enter into any sublease, lease, contract or other agreement with any similarly situated full service fixed base operator at the Airport, which contains more favorable terms than this lease or grants rights, privileges or concessions which are not granted to Lessee herein, to the extent required by FAA Grant

Assurances, except where such differences are nondiscriminatory and substantially comparable.

- (3) Lessor will require that a competitor make an investment sufficient to meet the full requirements of the Airport's applicable minimum standards prior to competitor's operation.

F. The Lessee for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

- (1) In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, religion, national origin, sex, disability, or age, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- (2) In the event of breach of any of the above Nondiscrimination covenants, City will have the right to terminate the agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the agreement had never been made or issued.

27. Prior Agreements:

Upon the Effective Date, Lease No. 1 and Lease No. 2, as each were amended and assigned, will immediately terminate and all of Flower's interests in Lease No. 1, Lease No. 2, the Leased Premises, Ramp, and Fuel Tanks shall terminate and Flower's rights to the same will cease and be of no force nor effect. All other agreements entered into between Lessor and Flower and all other interests in property at the Airport held by Flower will also terminate on the Effective Date. All interest in the Leased Premises, Ramp, and Fuel Tanks shall be held solely by Lessee in accordance with the terms of this Lease. All parties acknowledge and agree that the Leased Premises, Ramp, and Fuel Tanks, and all structures and improvements thereon, are owned solely by Lessor and Lessor has all rights and powers to lease the same.

28. Miscellaneous:

- A. This Lease and all of its covenants and provisions shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, subtenants, and approved assigns.

- B. This Lease and any amendments hereto are subject to prior approval of the Federal Aviation Administration.
- C. Lessee is leasing the Leased Premises, Ramp, and Fuel Tanks "AS IS, WHERE IS, WITH ALL FAULTS" in their present condition. Lessor makes no representation or warranties of any kind or character, express or implied, with respect to the Leased Premises, Ramp, and Fuel Tanks, including but not limited to, any warranty or representation as to suitability or fitness for a particular purpose, title, zoning, physical or environment conditions, utilities, governmental approvals, the compliance of the Leased Premises, Ramp, and Fuel Tanks with governmental and environment laws and regulations, the truth, accuracy or completeness of any document or other information provided to Lessee by Lessor or any other person, or any other matter or thing regarding the Leased Premises, Ramp, and Fuel Tanks. Lessor shall be under no obligation to maintain the Leased Premises, Ramp, and Fuel Tanks or the Pueblo Memorial Airport or any part thereof in a particular location or condition. If the Pueblo Memorial Airport shall permanently close or relocate, the use restrictions herein shall not apply, and the Lessee may use the Leased Premises, Ramp, and Fuel Tanks for any lawful use or purpose allowed by the then existing Pueblo Municipal Code, or in the alternative, Lessee may terminate this Lease upon thirty (30) days prior written notice given to Lessor.
- D. The Lessee represents that it has inspected the Airport, Leased Premises, Ramp, Fuel Tanks, and facilities and accepts the conditions of same and fully assumes the risk incident to the use thereof. The Lessor shall not be liable to the Lessee for any damages or injuries to the property or personnel of the Lessee which result from hidden, latent, or other dangerous conditions on the Airport or Leased Premises, Ramp, and Fuel Tanks. Lessee's taking of possession of the Leased Premises, Ramp, and Fuel Tanks shall be conclusive evidence that Lessee accepts the Leased Premises, Ramp, and Fuel Tanks in their present condition and that the Leased Premises, Ramp, and Fuel Tanks are in good and satisfactory condition at the time such possession was taken.
- E. The acts and omissions of Lessee's employees, agents, contractors, and guests shall be imputed to Lessee for purposes of this Lease.
- F. This Lease is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Lease, with respect to any financial obligation of Lessor which may arise under this Lease in any fiscal year, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Lease, including any sub-agreement, attachment, schedule or exhibit thereto, by the Lessor.

- G. Nothing in this Lease is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred upon the Lessor under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq.
- H. This Lease contains the entire and exclusive agreement between the parties relating to the Leased Premises, Ramp, and Fuel Tanks and may not be amended except by written instrument signed by the parties. Neither party shall be, or hold itself out as, agent of the other or as joint venturers or partners under this Lease.
- I. This Lease shall be governed by the laws of the State of Colorado. Venue for any action arising under this Lease or for the enforcement of this Lease shall be in a state court with jurisdiction located in Pueblo County, Colorado.
- J. Each person signing this Lease on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this Lease on behalf of such party and that this Lease is a valid and legally binding obligation of such party enforceable against it in accordance with its terms.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

LESSOR:

CITY OF PUEBLO
a Municipal Corporation

By Nicholas A. Gradisar
Nicholas A. Gradisar

Title: Mayor

Attest:

City Clerk
City Clerk

Approved as to form:

Daniel C. Kopovsek
City Attorney

LESSEE:

Freeman Holdings of Colorado, LLC
a Colorado limited liability company

By Francis B. Freeman Jr.
Francis B. Freeman Jr.

Title: Managing Member

FLOWER:

Rocky Mountain FBO, LLC
a Colorado limited liability company
d/b/a/ Flower Aviation FBO

By Jamie DeVincenty
Name Jamie DeVincenty
Title: Owner



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: AN ORDINANCE APPROVING A JOINT FUNDING AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, TO CONTINUE THE COLLECTION OF HYDROLOGIC DATA ALONG FOUNTAIN CREEK AND THE ARKANSAS RIVER AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign a Joint Funding Agreement between the City of Pueblo and the U.S. Geologic Survey ("USGS") for the 2023 calendar year, to continue the collection of hydrologic data, including gaging stations and sediment data.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Collection of Daily Suspended Sediment

The cost for operation and maintenance of the sediment monitor is shared by City of Pueblo, Pueblo County, and Southeastern Colorado Water Activity Enterprise. The cost to the City of Pueblo is \$4,779.

Collection of Streamflow Data

The USGS will operate surface-water gages at 07099970 Arkansas River at Moffat Street and 07099973 Arkansas River Tributary above Hwy 227. Real-time data from these sites are also available on the worldwide web. Cost to the City of Pueblo for this program element is \$5,203.

FINANCIAL IMPLICATIONS:**SUMMARY OF CITY OF PUEBLO/USGS
COOPERATIVE PROGRAM**

	Surface Water Program Element	City of Pueblo	USGS	Total
1.	Operation and maintenance of daily sediment site at Fountain Creek Pueblo	\$4,779	\$1,754	\$6,533
2a.	Operation and maintenance of stream gage at 07099970 Arkansas River at Moffat Street	\$1,936	\$863	\$2,799
2b.	Operation and maintenance of stream gage at 07099973 Arkansas River Tributary above Hwy 227	\$3,267		\$3,267
	Totals	\$9,982	\$2,617	12,599

Funds for implementation of this agreement are included in the Wastewater Department's 2023 budget.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

The no-action alternative would jeopardize the continuation of the collection of hydrologic data, including gaging stations and sediment data, along Fountain Creek and the Arkansas River.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. USGS Agreement

ORDINANCE NO. 10334

AN ORDINANCE APPROVING A JOINT FUNDING AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, TO CONTINUE THE COLLECTION OF HYDROLOGIC DATA ALONG FOUNTAIN CREEK AND THE ARKANSAS RIVER AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Joint Funding Agreement by and between the City of Pueblo, a Colorado municipal corporation, and the U.S. Geological Survey, dated January 1, 2023, a copy of which is attached hereto and made part hereof by reference ("Agreement") after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreement on behalf of the City of Pueblo and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement which are necessary or appropriate to implement the transactions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:

Hilda Leavins
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Lyssa
City Clerk

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR WATER RESOURCES INVESTIGATIONS

Customer No: 6000001058
Agreement No: 23REJFACO 206
Project No:
TIN #: 846000615

Fixed Cost
Agreement

☒ Yes ☐ No

THIS AGREEMENT is entered into as of the **1st day of January, 2023** by the U.S. GEOLOGICAL SURVEY, Colorado Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the **City of Pueblo**, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations , **collection of hydrologic data including gaging stations and sediment data**, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50; and 43 USC 50b.
2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program.
2(b) includes In-Kind Services in the amount of **\$0.00**.
 - (a) **\$2,617.00** by the party of the first part during the period
January 1, 2023 to December 31, 2023
 - (b) **\$9,982.00** by the party of the second part during the period
January 1, 2023 to December 31, 2023
 - (c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of:
\$0.00 Description of USGS regional/national program: **GWSIP**
 - (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.
 - (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.
3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.
4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.
5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.
6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.
7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.
8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the scope of work are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (<https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices>).
9. Billing for this agreement will be rendered **semi-annually (in September and December)**. Invoices not paid within 60 days from date of bill will bear Interest, Penalties, and Administrative costs as the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. 3717) established by the U.S. Treasury.

**U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR WATER RESOURCES INVESTIGATIONS**

Customer No: 6000001058
Agreement No: 23REJFACO 206
Project No:
TIN #: 846000615
Fixed Cost Agreement ☒ Yes ☐ No

USGS Technical Point of Contact

Name: Krystal Brown
Title: Supervisory Hydrologic Technician
Address: 201 E. 9th St.
City/State/Zip: Pueblo, CO 81003
Telephone: 719-562-2841
Fax: 719-544-2463
Email: kbrown@usgs.gov

Customer Technical Point of Contact

Name: Andra Ahrens
Title: Interim Wastewater Director
Address: 1300 South Queens Avenue
City/State/Zip: Pueblo, CO 81001
Telephone: 719-553-2896
Fax:
Email: aahrens@pueblo.us

USGS Billing Point of Contact

Name: Meghan Patterson
Title: Budget Analyst
Address: Denver Federal Center, MS-415, Building 53
City/State/Zip: Lakewood, CO 80225
Telephone: 303-236-1450
Fax: 303-236-4912
Email: mpatterson@usgs.gov

Customer Billing Point of Contact

Name: Nicholas Gradisar
Title: City Mayor
Address: City of Pueblo, 1 City Hall Place
City/State/Zip: Pueblo, CO 81003
Telephone: 719-553-2611
Fax:
Email: NGradisar@pueblo.us

U.S. Geological Survey
United States
Department of Interior

City of Pueblo

SIGNATURE

SIGNATURES

By: **BRANDON FORBES**  Digitally signed by BRANDON FORBES
Date: 2022.10.26 11:55:48 -06'00'
Name: Matthew Ely
Title: Director, CWSC/USGS
Date: _____

By: _____ Date: _____
Name: Nicholas Gradisar
Title: City Mayor



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Scott Hobson, Acting Director Planning and Community Development
SUBJECT: AN ORDINANCE APPROVING THE SECOND AMENDMENT TO THE RESTATED ANNEXATION AGREEMENT FOR THE AREA COMMONLY KNOWN AS THE NORTH VISTA ANNEXATION DESCRIBED AS LAND NORTH OF VISION HILLS PARKWAY AND WEST OF TROY AVENUE

SUMMARY:

This Ordinance approves the second amendment to the Restated North Vista Annexation Agreement that was adopted by Resolution No. 13916 on March 12, 2018. The first amendment to the Restated Annexation Agreement was adopted by Resolution No. 14739 on October 25, 2021. The proposed amendment requires the Petitioner to expand and enlarge the main sanitary sewer lines in Jerry Murphy Road between Candytuft Boulevard and Vision Hills Parkway and within Castor Drive north of Vision Hills Parkway which will allow for additional residential building permits to be issued prior to the extension of Jerry Murphy Road and the main sanitary sewer line to serve areas north of Home of Heroes Parkway.

PREVIOUS COUNCIL ACTION:

On April 13, 2009, by Ordinance No. 7996, City Council approved an Annexation and Annexation Agreement for the North Vista area containing 1172.09 acres.
On March 12, 2018, by Resolution No. 13916, City Council approved a Restated Annexation Agreement for the North Vista Annexation.
On October 25, 2021, by Resolution No. 14739, City Council approved the First Amendment to the Restated Annexation Agreement for the North Vista Annexation.

BACKGROUND:

This Ordinance approves the second amendment to the Restated Annexation Agreement ("Agreement") between the City of Pueblo, a municipal corporation and Pueblo Heights LLC, a Colorado limited liability company ("Pueblo Heights") related to the North Vista Annexation. The amended agreement provides for the following changes:

1. Exhibit C-1, Section 5 is deleted in its entirety and replaced as follows:

5. Construction of Offsite Sanitary Sewer.

a. The Petitioner shall design and construct, at no cost to the City, within one hundred eighty (180) days after the three hundredth (300th) building permit is issued to construct any dwelling unit on the Property, an eighteen inch (18") sanitary sewer main and all related facilities in Jerry Murphy Road from Candytuft Boulevard to Vision Hills Parkway. Petitioner must complete construction of the sanitary sewer improvements according to design and construction standards required by the City and the approved Sanitary Master Plan. Petitioner may apply for cost recovery for the off-site sanitary sewer improvements described above, pursuant to Section 16-5-5 of the Pueblo Municipal Code.

b. The Petitioner shall design and construct, at no cost to the City, an eighteen inch (18") sanitary sewer main from the south boundary of the Property within the right-of-way of Castor Drive connecting to the wastewater manhole located at the intersection of Castor Drive and Vision Hills Parkway. This improvement shall be completed prior to the issuance of the one thousand three hundred and fifty-first (1,351st) residential dwelling unit on the Property located south of Home of Heroes Parkway and east of the drainage arroyo as shown on Exhibit A or prior to the one hundred and first (101st) building permit for residential dwelling units that drain into the Castor Drive sanitary sewer main. Any damages to the roadways and other public improvements within the rights-of-ways of Castor Drive and Vision Hills Parkway shall be repaired, at no cost to the City. Petitioner must complete construction of the sanitary sewer improvements according to design and construction standards required by the City and the approved Sanitary Master Plan.

c. Following the completion and acceptance by City of the sanitary sewer improvements in Section 5.a. and Section 5.b. above, the Petitioner shall be allowed a maximum of seventeenth hundred fifty (1,750) building permits for dwelling units located south of Home of Heroes Parkway and east of the drainage arroyo. Petitioner shall, at no cost to the City, be responsible for the design and construction of the sanitary sewer improvements within the right-of-way of Jerry Murphy Road from Vision Hills Parkway to the southern boundary of the Property according to design and construction standards required by the City and the approved Sanitary Master Plan.

The design and construction of the sanitary sewer improvements shall be coordinated with the concurrent construction of Jerry Murphy Road and any associated drainage channel improvements identified in paragraph 6.b.(2) below. Petitioner may apply for cost recovery for the off-site sanitary sewer improvements described above, pursuant to Section 16-5-5 of the Pueblo Municipal Code.

2. Exhibit C-1, Section 6.b.(1) is deleted in its entirety and replaced as follows:

6. Construction of Road Improvements.

b. Petitioner Roadway Construction of Jerry Murphy Road from Vision Hills Parkway to Future Home of Heroes Parkway completed by Petitioner

1. Petitioner shall, at no cost to the City, be responsible for the following roadway improvements in accordance with the following requirements:

(a) Within one hundred eighty (180) days after the three hundredth (300th) building permit is issued to construct any dwelling unit on the Property, Petitioner shall be responsible for chip sealing Overton Road from Vision Hills Parkway northerly to the northern property line adjacent to Overton Road; and,

(b) Within one hundred eighty (180) days after the issuance of the seventeenth hundred fifty-first (1,751st) building permit is issued to construct any dwelling unit on the Property, Petitioner shall be responsible to design and construct Jerry Murphy Road between the intersection of Vision Hills Parkway and Future Home of Heroes Parkway at no cost to the City, as a four lane, median divided, principal arterial roadway section.

(c) Within one hundred eighty (180) days after the issuance of a building permit for any dwelling unit located north of Home of Heroes Parkway or west of the drainage arroyo as shown on Exhibit A, Petitioner shall be responsible to design and construct Jerry Murphy Road between the intersection of Vision Hills Parkway and Future Home of Heroes Parkway at no cost to the City, as a four lane, median divided, principal arterial roadway section.

3. Except as modified by this Second Amendment, the Restated Annexation Agreement, remains in full force and effect.

FINANCIAL IMPLICATIONS:

This Amendment to the Restated Annexation Agreement will not change the required payment of \$6,500 for each dwelling unit that is collected at the issuance of all residential dwelling units for specific transportation improvements (Transportation Impact Fee) or for the Petitioner to make sanitary sewer main improvements to Jerry Murphy Road between Candytuft Boulevard and Vision Hills Parkway, and the upsize the sanitary sewer main in Castor Drive prior to the issuance of specific number of residential building permits on the Property.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

If City Council does not approve this Ordinance, the current Annexation Agreement will remain in effect. The current Restated Annexation Agreement requires the construction

of a new sanitary sewer main and the northern extension of Jerry Murphy Road prior to the 751st residential building permit being issued within the Property. The sanitary sewer and Jerry Murphy roadway extensions are not needed to serve approximately 1,750 residential units that could be constructed south of Home of Heroes Parkway and accessed from Vision Hills Parkway.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2nd Amendment to NV Restated Annexation Agreement
2. Recorded Amendment No. 1 to NV Restated Annexation Agreement
3. Recorded NV Restated Annexation Agreement

ORDINANCE NO. 10335

AN ORDINANCE APPROVING THE SECOND AMENDMENT TO
THE RESTATED ANNEXATION AGREEMENT FOR THE AREA
COMMONLY KNOWN AS THE NORTH VISTA ANNEXATION
DESCRIBED AS LAND NORTH OF VISION HILLS PARKWAY
AND WEST OF TROY AVENUE

WHEREAS, pursuant to Resolution No. 13916 of the Pueblo City Council a Restated Annexation Agreement dated March 12, 2018, and recorded with the Pueblo County Clerk and Recorder on March 29, 2018, at Reception No. 2100918 ("Annexation Agreement") was entered into by and between the City of Pueblo, a municipal corporation, (the "City"), and BLH Properties, LLC, a Colorado limited liability company, Pete Urenda a/k/a Albert Pete Urenda, and Home Town Finance Co., a/k/a The Hometown Finance Co., a Colorado corporation, collectively referred to as "Petitioners" as owners of the real property described of the Annexation Agreement; and,

WHEREAS, pursuant to Resolution No. 14739 of the Pueblo City Council the First Amendment to the Restated Annexation Agreement dated March 12, 2018, and recorded with the Pueblo County Clerk and Recorder on October 28, 2021, at Reception No. 2250175 ("First Amendment to the Annexation Agreement") was entered into by and between the City of Pueblo, a municipal corporation, (the "City"), and Pueblo Heights LLC, a Colorado limited liability company ("Pueblo Heights") referred to as "Petitioner" as owner of the real property described of the Annexation Agreement; and,

WHEREAS, Pueblo Heights consented to and approved the Annexation Agreement and is the successor-in-title to Petitioners' interest in the Property which remains subject to the Restated Annexation Agreement and the First Amendment to the Annexation Agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Second Amendment to the Restated Annexation Agreement, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Second Amendment to the North Vista Restated Annexation Agreement on behalf of Pueblo, a Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest to the same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective immediately upon final action by the Mayor, City Council and upon Petitioner executing an Agreement approving the Second Amendment to the Restated Annexation Agreement set forth in Section 1 and ratifying and confirming the Second Amendment to the Annexation Agreement which will thereafter be recorded by the City Clerk in the records of the Pueblo County Clerk and Recorder.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

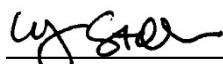
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

SECOND AMENDMENT TO RESTATED ANNEXATION AGREEMENT

Recitals

- A. Pursuant to Resolution of the Pueblo City Council as set forth in Resolution No. 13916, a Restated Annexation Agreement dated March 12, 2018, was recorded with the Pueblo County Clerk and Recorder on March 29, 2018, at Reception No. 2100918.
- B. Pursuant to Resolution of the Pueblo City Council as set forth in Resolution No. 14739, an Amendment to the Restated Annexation Agreement dated October 27, 2021,, was recorded with the Pueblo County Clerk and Recorder on October 28, 2021, at Reception No. 2250175. The Restated Annexation Agreement and Amendment are collectively referred to as the “Annexation Agreement”.
- C. In accordance with Article VIII, of the Annexation Agreement, the City and Pueblo Heights desire to enter into a second amendment to the Restated Annexation Agreement pursuant to the terms and conditions outlined herein (“Second Amendment”).

Amendment

NOW THEREFORE, the City and Pueblo Heights agree that the Annexation Agreement is amended as follows:

1. Exhibit C-1, Section 5 is deleted in its entirety and replaced as follows:

5. Construction of Offsite Sanitary Sewer.

a. The Petitioner shall design and construct, at no cost to the City, within one hundred eighty (180) days after the three hundredth (300th) building permit is issued to construct any dwelling unit on the Property, an eighteen inch (18”) sanitary sewer main and all related facilities in Jerry Murphy Road from Candytuft Boulevard to Vision Hills Parkway. Petitioner must complete construction of the sanitary sewer improvements according to design and construction standards required by the City and the approved Sanitary Master Plan. Petitioner may apply for cost recovery for the off-site sanitary sewer improvements described above, pursuant to Section 16-5-5 of the Pueblo Municipal Code.

b. The Petitioner shall design and construct, at no cost to the City, an eighteen inch (18”) sanitary sewer main from the south boundary of the Property within the right-of-way of Castor Drive connecting to the wastewater manhole located at the intersection of Castor Drive and Vision Hills Parkway. This improvement shall be completed prior to the issuance of the one thousand three hundred and fifty-first (1,351st) residential dwelling unit on the Property located south of Home of Heroes Parkway and east of the drainage arroyo as shown on Exhibit A or prior to the one hundred and first (101st) building permit for

residential dwelling units that drain into the Caster Drive sanitary sewer main. Any damages to the roadways and other public improvements within the rights-of-ways of Caster Drive and Vision Hills Parkway shall be repaired, at no cost to the City. Petitioner must complete construction of the sanitary sewer improvements according to design and construction standards required by the City and the approved Sanitary Master Plan. Petitioner may apply for cost recovery for the off-site sanitary sewer improvements pursuant to Section 16-5-5 of the Pueblo Municipal Code.

c. Following the completion and acceptance by City of the sanitary sewer improvements in Section 5.a. and Section 5.b. above, the Petitioner shall be allowed a maximum of seventeenth hundred fifty (1,750) building permits for dwelling units located south of Home of Heroes Parkway and east of the drainage arroyo as shown on Exhibit A. Petitioner shall, at no cost to the City, be responsible for the design and construction of the sanitary sewer improvements within the right-of-way of Jerry Murphy Road from Vision Hills Parkway to the southern boundary of the Property according to design and construction standards required by the City and the approved Sanitary Master Plan in accordance with the following requirements:

- (1) Within one hundred eighty (180) days after the seventeenth hundred fifty-first (1,751st) building permit for any dwelling unit on the Property, Petitioner shall, at no cost to the City, be responsible for the design and construction of the sanitary sewer improvements within the right-of-way of Jerry Murphy Road from Vision Hills Parkway to the southern boundary of the Property according to design and construction standards required by the City and the approved Sanitary Sewer Master Plan.
- (2) Within one hundred eighty (180) days after the issuance of a building permit for any dwelling unit located north of Home of Heroes Parkway or west of the drainage arroyo as shown on Exhibit A, Petitioner shall, at no cost to the City, be responsible for the design and construction of the sanitary sewer improvements within the right-of-way of Jerry Murphy Road from Vision Hills Parkway to the southern boundary of the Property according to design and construction standards required by the City and the approved Sanitary Sewer Master Plan.

The design and construction of the sanitary sewer improvements shall be coordinated with the concurrent construction of Jerry Murphy Road and any associated drainage channel improvements identified in paragraph 6.b.(2) below. Petitioner may apply for cost recovery for the off-site sanitary sewer improvements described above, pursuant to Section 16-5-5 of the Pueblo Municipal Code.

2. **Exhibit C-1, Section 6.b.(1) is deleted in its entirety and replaced as follows:**

6. Construction of Road Improvements.

b. Petitioner Roadway Construction of Jerry Murphy Road from Vision Hills Parkway to Future Home of Heroes Parkway completed by Petitioner

(1) Petitioner shall, at no cost to the City, be responsible for the following roadway improvements in accordance with the following requirements:

(a) Within one hundred eighty (180) days after the three hundredth (300th) building permit is issued to construct any dwelling unit on the Property, Petitioner shall be responsible for chip sealing Overton Road from Vision Hills Parkway northerly to the northern property line adjacent to Overton Road; and

(b) Within one hundred eighty (180) days after the issuance of the seventeenth hundred fifty-first (1,751st) building permit is issued to construct any dwelling unit on the Property, Petitioner shall be responsible to design and construct Jerry Murphy Road between the intersection of Vision Hills Parkway and Future Home of Heroes Parkway at no cost to the City, as a four lane, median divided, principal arterial roadway section.

(c) Within one hundred eighty (180) days after the issuance of a building permit for any dwelling unit located north of Home of Heroes Parkway or west of the drainage arroyo as shown on Exhibit A, Petitioner shall be responsible to design and construct Jerry Murphy Road between the intersection of Vision Hills Parkway and Future Home of Heroes Parkway at no cost to the City, as a four lane, median divided, principal arterial roadway section.

(2) The alignment, design, and construction plan for the roadway improvements shall be approved in the sole discretion of the Director of Public Works. If any portion of the improvements required in this subparagraph are tributary to the drainage channel located approximately five hundred (500) feet south of the south boundary line of the Property (the "Box Culvert"), Petitioner shall be responsible to increase the size and capacity of the Box Culvert as determined by the final storm drainage study and then prepared at Petitioner's cost in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City, published June 9, 1997, or as same may later be amended ("MANUAL") and be certified by a Professional Engineer competent in the field of surface water drainage engineering and registered in the State of Colorado.

3. **No Other Amendments.** Except as modified by this Second Amendment, the Restated Annexation Agreement, remains in full force and effect.
4. **Effective Date.** This Amendment will become effective upon execution of both parties and recording with the Pueblo County Clerk and Recorder.

THE CITY OF PUEBLO,
a municipal corporation

By: _____
Nicholas A. Gradisar, Mayor

Date: _____

Attest: _____
Marisa Stoller, City Clerk

APPROVED AS TO FORM:

City Attorney

State of Colorado)
) ss:
County of Pueblo)

I attest that the foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Nicholas A. Gradisar as Mayor and Marisa Stoller, as City Clerk for the City of Pueblo.

Witness my hand and official seal.

Notary Public

My commission expires _____.

PUEBLO HEIGHTS LLC,
a Colorado limited liability company, by
Jevin Investments, Inc., its manager

By: _____

Date: _____

Title: President

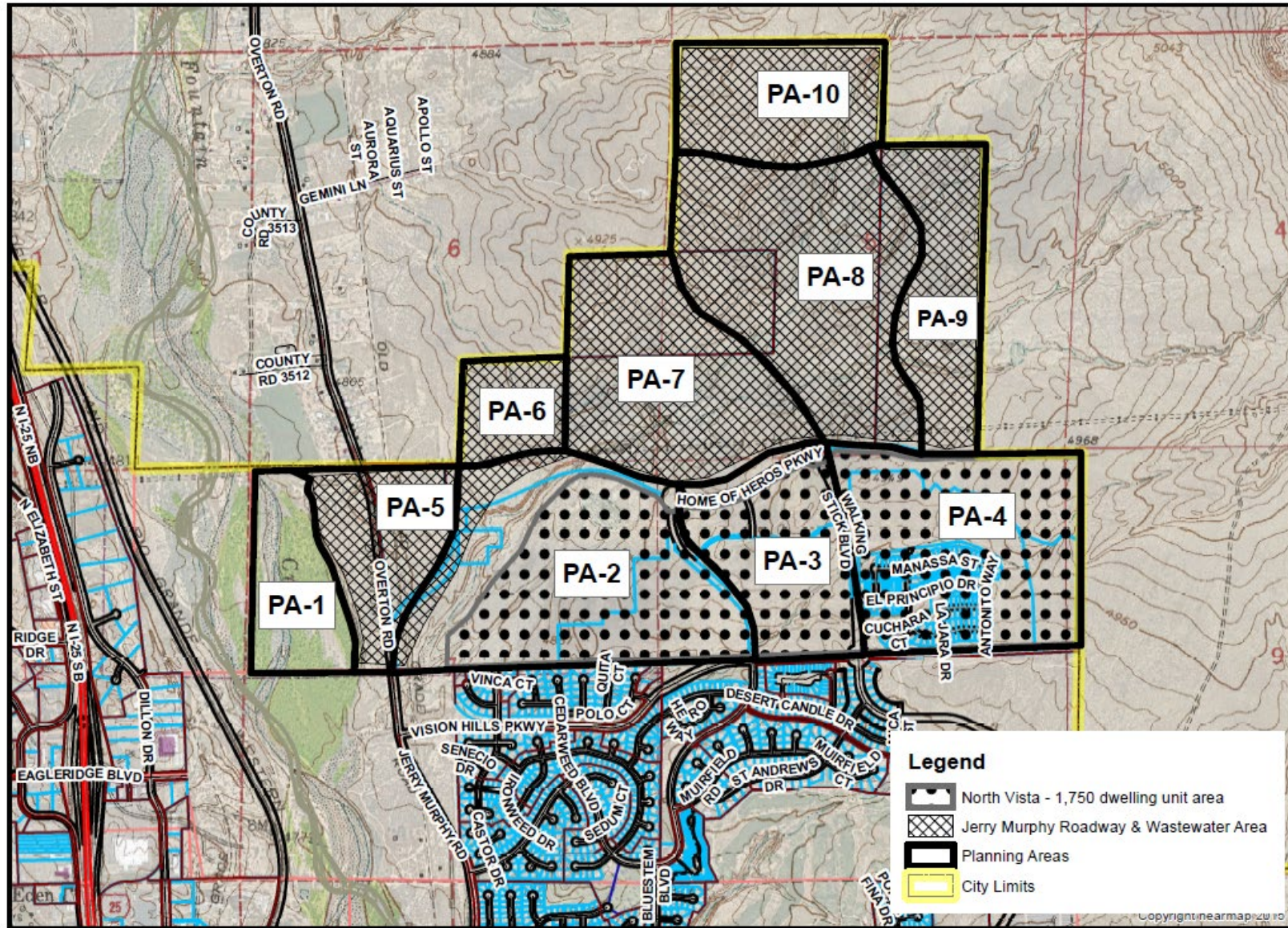
State of Colorado)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2022, by David Resnick, President of Jevin Investments, Inc., as Manager of Pueblo Heights
LLC.

Witness my hand and official seal.

Notary Public

My commission expires _____.



0 1,000 2,000 4,000 Feet



Exhibit A
North Vista Restated Annexation Agreement
2nd Amendment

This map is for City of Pueblo planning purposes only. The City of Pueblo, Colorado does not guarantee nor provide any warranty, expressed or implied, as to the representative completeness or accuracy of maps and data provided herein.

RESOLUTION NO. 14739

A RESOLUTION APPROVING AN AMENDMENT TO THE
RESTATED ANNEXATION AGREEMENT FOR THE AREA
COMMONLY KNOWN AS THE NORTH VISTA
ANNEXATION DESCRIBED AS LAND NORTH OF VISION
HILLS PARKWAY AND WEST OF TROY AVENUE, AS
APPROVED BY RESOLUTION NO. 13916

WHEREAS, pursuant to Resolution No. 13916 of the Pueblo City Council a Restated Annexation Agreement dated March 12, 2018, and recorded with the Pueblo County Clerk and Recorder on March 29, 2018, at Reception No. 2100918 ("Annexation Agreement") was entered into by and between the City of Pueblo, a Colorado Municipal Corporation, (the "City"), and BLH Properties, LLC, a Colorado Limited Liability Company, Pete Urenda a/k/a Albert Pete Urenda, and Home Town Finance Co., a/k/a The Hometown Finance Co., a Colorado Corporation, collectively referred to as "Petitioners" as owners of the real property described of the Annexation Agreement; and,

WHEREAS, Pueblo Heights LLC, a Colorado Limited Liability Company ("Pueblo Heights") consented to and approved the Annexation Agreement and is the successor-in-title to Petitioners' interest in the Property which remains subject to the Annexation Agreement; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Amendment to the Restated Annexation Agreement, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Amendment to the North Vista Restated Annexation Agreement on behalf of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest to the same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Resolution to effectuate the policies and procedures described herein.

SECTION 4.

This Resolution shall become effective immediately upon Petitioner executing an agreement approving the amendment to the Restated Annexation Agreement set forth in Section 1 and ratifying and confirming the Amendment to the Annexation Agreement which will thereafter be recorded by the City Clerk in the records of the Pueblo County Clerk and Recorder.

BY: Ed Brown
MEMBER OF CITY COUNCIL

APPROVED: Lourence W. Alvarado
PRESIDENT OF CITY COUNCIL

ATTESTED BY: W. G. [Signature]
CITY CLERK

**BACKGROUND PAPER FOR PROPOSED
RESOLUTION**

COUNCIL MEETING DATE: October 25, 2021

TO: President Lawrence W. Atencio and Members of City Council
CC: Nicholas A. Gradisar, Mayor
VIA: Marisa Stoller, City Clerk
FROM: Scott Hobson, Acting Director of Planning and Community Development
SUBJECT: A RESOLUTION APPROVING AN AMENDMENT TO THE RESTATED ANNEXATION AGREEMENT FOR THE AREA COMMONLY KNOWN AS THE NORTH VISTA ANNEXATION DESCRIBED AS LAND NORTH OF VISION HILLS PARKWAY AND WEST OF TROY AVENUE, AS APPROVED BY RESOLUTION NO. 13916

SUMMARY:

The Resolution approves an amendment to the Restated North Vista Annexation Agreement that was adopted by Resolution No. 13916 on March 12, 2018. The proposed amendments pertain to a reduction in the number of building permits issued prior to the Petitioner's completion of certain wastewater improvements, increasing the Transportation Impact Fee collected by the City on each residential building permit, and amending the off-site transportation improvements required to be constructed by the Petitioner and the transportation improvements that will be constructed by the City through the funds received from Transportation Impact Fee.

PREVIOUS COUNCIL ACTION:

On April 13, 2009, by Ordinance No. 7996, City Council approved an annexation and an annexation agreement for the North Vista area containing 1172.09 acres.

On March 12, 2018, by Resolution No. 13916, City Council approved a Restated Annexation Agreement for the North Vista Annexation.

BACKGROUND:

This Resolution approves an amendment to the Restated Annexation Agreement ("Agreement") between the City of Pueblo, a municipal corporation and Pueblo Heights LLC, a Colorado Limited Liability Company ("Pueblo Heights") related to the North Vista Annexation. The amended agreement provides for the following changes:

1. The ownership of the property has transferred from BLH Properties, LLC, a Colorado Limited Liability Company, Pete Urenda a/k/a Albert Pete Urenda and Hometown Finance Co., a/k/a The Hometown Finance Co., a Colorado Corporation to Pueblo Heights LLC, a Colorado limited liability company following the date of approval of the Restated Annexation Agreement was approved in 2018. Pueblo Heights consented to and approved the Annexation Agreement and is the successor-in-title to Petitioners' interest in the Property which remains subject to the Annexation Agreement.
2. Off-site sanitary sewer mains will not be required to be constructed for the three hundred (300) lots that can be serviced by the existing City wastewater system. The current Restated Agreement allows for up to 750 lots which is more residential homes than the existing City wastewater system can support.
3. Article II, Section 4 – Transportation Plan is amended to identify that the traffic improvements funded by one or more traffic impact fees will be constructed and installed by both the Petitioner and/or the City as identified in Exhibit C of the agreement.
4. Article IV – Public Facilities is amended to limit the Petitioner's expense for construction and installation of certain off-site improvements to those off-site improvements that are specifically identified in Exhibit C of the agreement.
5. Exhibit C-1, Section 1 – Trails and Section 2 c. – Parks are amended to allow for a metropolitan district to design, construct, and maintain trails and parks less than ten (10) acres throughout the Property instead of a homeowner's association. The homeowner's association responsibilities have been transferred to the North Vista Metropolitan Districts 1-5.
6. Exhibit C-1, Section 2 b. – Parks is amended to allow for Developed Park Sites of 10 acres or more that are not accepted (or until they are accepted) by the City to be owned and maintained by the North Vista Metropolitan Districts 1-5.
7. Exhibit C-1, Section 5 – Construction of Offsite Sanitary Sewer is amended to reduce the number lots that can be developed and serviced by the existing City wastewater system to 300 lots instead of the 750 lots which is currently allowed in the current Restated Agreement. The 750 lots are more residential homes than the existing City wastewater system can support.
8. Exhibit C-1, Section 6 – Construction of Road Improvements.
The current Restated Annexation Agreement requires the Petitioner to design and construct the following off-site improvements:
 - a. Jerry Murphy Road from Vision Hills Parkway to Future Home of Heroes Parkway.
 - b. Home of Heroes Parkway west of their property including any utilities, acceleration and deceleration lanes, bridges and intersection improvements. This includes the Petitioner's acquisition of right-of-way for a bridge connecting

over Fountain Creek and the railroad to Dillon Drive following is issuance of the 850th residential building permit. In addition, a two-lane bridge structure is required to be constructed following the issuance of the 1,500th residential building permit. The estimated cost provided by the Petitioner's transportation engineers for the design and construction of this bridge is \$50 million dollars, which the Petitioner does not have the financial capacity to construct solely through the proceeds from this development.

The proposed amendment to the Restated Annexation Agreement limits the only off-site roadway improve that is designed and constructed by the Petitioner to the roadway improvements of Jerry Murphy Road from Vision Hills Parkway to Future Home of Heroes Parkway.

The Amended Restated Agreement includes a single Transportation Impact Fee (TIF) in the amount of \$6,500 for each dwelling unit that is collected at the issuance of a building permit. The TIF fee will be adjusted annually starting in the 2023 calendar year based on most recent Construction Cost Index published by the Colorado Department of Transportation. The 1st quarter 2022 cost index data will serve as the baseline for future TIF fee adjustments. Currently the Restated Annexation Agreement has two different impact fees (\$4,500 and \$1,000) in differing amounts (\$4,500 and \$1,000) that will be combined into one impact fee.

The amended agreement stipulates the TIF funds shall be used for the design and construction of roadway and bridge improvements including, but not limited to, roadway and bridge structure, paving, traffic signals, signal interconnect, conduit and flyer, deceleration/ acceleration lanes, curb and gutter, stormwater collection and detention facilities designed as part of a roadway project, median islands, transportation signage, sidewalks, ADA access ramps, bike and pedestrian trails constructed within a transportation project right-of-way.

TIF funds are not eligible to be expended or reimbursed for the installation of the public utility lines such as water, wastewater, electric, natural gas, television cable, or other electronic transmission lines, and other non-transportation improvement related expenses.

9. The Amended Restated Agreement is not changed pertaining to the Petitioner's requirement construct all road improvements within the Property as described in the PUD Development Plan.

FINANCIAL IMPLICATIONS:

The City will establish a single Transportation Impact Fee escrow account for the acceptance of impact fees in the amount of \$6,500 for each dwelling unit that is collected at the issuance of all residential dwelling unit building permits. These funds will be utilized, at the sole discretion of the City, for the design and construction of other off-site roadway and bridge improvements to serve the Property not otherwise identified as Petitioner's responsibility

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

A certified mailing has been delivered to all taxing entities as required by Colorado Revised Statutes including the notice of the hearing, annexation petition, annexation plat, and annexation impact report.

ALTERNATIVES:

If City Council does not approve this Resolution, the current annexation agreement will remain in effect. The current annexation agreement does not provide for the phasing and recuperation of public investment by the property owners in a manner that facilitates the development of the property.

RECOMMENDATION:

Approval of the Resolution.

Attachments: Proposed Resolution

Amended Restated Annexation Agreement



AMENDMENT TO RESTATED ANNEXATION AGREEMENT

Recitals

- A. Pursuant to Resolution of the Pueblo City Council as set forth in Ordinance No. 13916, a Restated Annexation Agreement dated March 12, 2018, and recorded with the Pueblo County Clerk and Recorder on March 29, 2018, at Reception No. 2100918 (“Annexation Agreement”) was entered into by and between the City of Pueblo, a municipal corporation, (the “City”), and BLH Properties, LLC, a Colorado limited liability company, Pete Urenda a/k/a Albert Pete Urenda, and Home Town Finance Co., a/k/a The Hometown Finance Co., a Colorado corporation, collectively referred to as “Petitioners” as owners of the real property described on Ex. A (“Property”) of the Annexation Agreement.
- B. Pueblo Heights LLC, a Colorado limited liability company (“Pueblo Heights”) consented to and approved the Annexation Agreement and is the successor-in-title to Petitioners’ interest in the Property which remains subject to the Annexation Agreement.
- C. In accordance with Article VIII, of the Annexation Agreement, the City and Pueblo Heights desire to enter into an amendment to the Annexation Agreement pursuant to the terms and conditions outlined herein (“Amendment”).

Amendment

NOW THEREFORE, the City and Pueblo Heights agree that the Annexation Agreement is amended as follows:

1. **Article II, Section 1 regarding the Development Plan is deleted in its entirety and replaced as follows:**

1) Development Plan. The Development Plan shall be prepared in accordance with the requirements of Sections 12-4-5(a)(2) and 12-4-6(a) of the Pueblo Municipal Code. A development plan establishing the anticipated phasing of the development of the Property shall be prepared as part of the Development Plan. Without the requirement of the construction and/or development of off-site sanitary sewer mains, the Petitioner shall be entitled to develop on the Property three hundred (300) lots within the areas crosshatched on Exhibit D-1 attached hereto and made a part hereof to be within the presently developed Wastewater Service Area on the Property, said Lots to be replatted in accordance with Section 12 of the Pueblo Municipal Code. Petitioner will not be required to construct any off-site sanitary sewer and/or water distribution mains with regard to said Property, nor will it be required to construct any off-site roadways leading to said development property, except as otherwise defined and described in Exhibit C.



2. Article II, Section 4 regarding the Transportation Plan is deleted in its entirety and replaced as follows:

4) Transportation Plan. The Transportation Plan shall be prepared in accordance with the criteria and general outline specified by the City Traffic Engineer and shall be supported by studies and reports prepared by Professional Engineers competent in the field of transportation and registered in the State of Colorado. Associated impacts on City's existing and proposed traffic and roadway systems shall be identified in the Transportation Plan and studies, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through traffic improvements constructed and installed by and at the expense of the Petitioner and/or the City funded by one or more traffic impact fees (such as, but not limited to, traffic signals, signal interconnect, conduit and flyer, deceleration/ acceleration lanes, and median islands). The Transportation Plan shall include a phasing plan or schedule of such traffic improvements. If street improvements through the Property are required to be constructed, the Petitioner will pay the entire cost of such improvements and thereafter be eligible for such cost recovery as may be provided under section 12-4-12 of the Pueblo Municipal Code or as same may hereafter be amended, but shall not be eligible for any cost recovery from the City.

3. Article IV, regarding Public Facilities is deleted in its entirety and replaced as follows:

IV. PUBLIC FACILITIES

The Petitioner shall dedicate land and right-of-way for public uses and facilities necessary to serve the Property or required as a result of the development of the Property as determined by the City, in its sole discretion, including, but not limited to, sanitary and storm sewers, drainage ways and facilities, utilities, streets, roadways, trails, travel systems and parks. The Petitioner at their expense shall construct and install all on-site improvements, that are necessary to serve the Property or required as a result of the development of the property as determined by the City, in its sole discretion, including, but not limited to, streets, bridges, street lights, curbs and gutters, sidewalks, trails, traffic control devices, sanitary sewers, storm sewers, drainage and channel improvements and facilities. Petitioner at their expense shall only be required to construct and install certain off-site improvements specifically identified in this Agreement. All such improvements shall meet and comply with applicable City Ordinances in effect at the time of installation of such improvements.



4. Article XV, Section 1 (b) regarding the address for Notice to Petitioners is deleted in its entirety and replaced as follows:

(b) if to Petitioner: Pueblo Heights LLC
3819 Broadview Place
Castle Rock, CO 80109

5. Exhibit C-1, Section 1 is deleted in its entirety and replaced as follows:

1. Trails. The Petitioner shall design and construct, and cause to be maintained, by themselves or by means of a metropolitan district, trails throughout the Property connecting, in accordance with an approved final subdivision plat, to existing trails within the City of Pueblo, as described in the PUD Development Plan. Trails shall be located in general in accordance with the PUD Development Plan, provided that the final location and alignment within a subdivision shall be determined at the time of subdivision review.

6. Exhibit C-1, Section 2(b) is deleted in its entirety and replaced as follows:

b. Developed Park Sites of ten (10) acres or more shall be conveyed by the Petitioner to the City by warranty deed, if the City, in the exercise of its sole discretion, determines that it will accept such Developed Park Site for maintenance and ownership prior to the recording of any final subdivision plat for a development area or portion thereof which contains such Developed Park Site. If the City determines not to accept such Developed Park Site, as provided herein, then such Developed Park Site shall be owned and maintained by the Petitioner or a metropolitan district.

7. Exhibit C-1, Section 2(c) is deleted in its entirety and replaced as follows:

c. The Developed Park Sites that are less than ten (10) acres shall be owned and maintained by the Petitioner or a metropolitan district.

8. Exhibit C-1, Section 5 is deleted in its entirety and replaced as follows:

5. Construction of Offsite Sanitary Sewer. The Petitioner shall design and construct, at no cost to the City, within one hundred eighty (180) days after the Three Hundredth (300th) building permit is issued to construct any dwelling unit on the Property, an eighteen inch (18") sanitary sewer main and all related facilities in Jerry Murphy Road from Candytuft Boulevard to the south boundary of the Property. Petitioner must complete construction of the sanitary sewer improvements according to design and construction standards required by the City and the approved Sanitary Master Plan. Petitioner may apply for cost recovery for the off-site sanitary sewer improvements described above, pursuant to Section 16-5-5 of the Pueblo Municipal Code.



9. **Exhibit C-1, Section 6 is deleted in its entirety and replaced as follows:**

6. Construction of Road Improvements.

a. Transportation Impact Fee to City for Design and Construction of Off-Site Roadway and Bridge Improvements

- (1) Petitioner and any subsequent owner of all or any part of the Property shall, as a condition of the issuance of a building permit for the construction of any one or more dwelling units within the Property, pay a Transportation Impact Fee of Six Thousand Five Hundred Dollars (\$6,500.00) for each dwelling unit to be constructed within the Property ("TIF"). Beginning with the 2023 calendar year, the TIF amount shall be adjusted annually based on the most recent Construction Cost Index published by the Colorado Department of Transportation. The 1st quarter 2022 cost index data will serve as the baseline for future TIF fee adjustments. The TIF shall be paid to the City at the time a building permit is issued for each dwelling unit and shall be deposited in an interest-bearing account identified as the "North Vista Transportation Improvement Account."

Petitioner, for itself and its successors and assigns, including all subsequent owners of land within the Property, stipulate and agree that there is an essential nexus between the TIF and the City's legitimate interest in providing for the off-site roadway improvements and that the TIF is roughly proportional both in nature and extent to the impact of the proposed development of the Property.

- (2) TIF funds shall be used for the design and construction of roadway and bridge improvements including, but not limited to, roadway and bridge structure, paving, traffic signals, signal interconnect, conduit and flyer, deceleration/ acceleration lanes, curb and gutter, stormwater collection and detention facilities designed as part of a roadway project, median islands, transportation signage, sidewalks, ADA access ramps, bike and pedestrian trails constructed within a transportation project right-of-way.

TIF funds are not eligible to be expended or reimbursed for the installation of the public utility lines such as water, wastewater, electric, natural gas, television cable, or other electronic transmission lines, and other non-transportation improvement related expenses.

b. Petitioner Roadway Construction of Jerry Murphy Road from Vision Hills Parkway to Future Home of Heroes Parkway completed by Petitioner



- (1) Within one hundred eighty (180) days after the seven hundred fifty-first (751st) building permit is issued to construct any dwelling unit on the Property, Petitioner shall be responsible to design and construct that portion of Jerry Murphy Road between the intersection of Vision Hills Parkway and Future Home of Heroes Parkway at no cost to the City, as a four lane, median divided, principal arterial roadway section, including acceleration and deceleration lanes, as shown on Exhibit C-2. The alignment, design, and construction plan for the roadway improvements shall be approved in the sole discretion of the Director of Public Works. If any portion of the improvements required in this subparagraph are tributary to the drainage channel located approximately five hundred (500) feet south of the south boundary line of the Property (the "Box Culvert"), Petitioner shall be responsible to increase the size and capacity of the Box Culvert as determined by the final storm drainage study and then prepared at Petitioner's cost in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City, published June 9, 1997, or as same may later be amended ("MANUAL") and be certified by a Professional Engineer competent in the field of surface water drainage engineering and registered in the State of Colorado.
- (2) If the roadway construction of Jerry Murphy Road from Vision Hills Parkway to Future Home of Heroes Parkway is not completed within the 180-day period, no additional building permits will be approved.
- (3) The design and construction of Jerry Murphy Road identified in this Section does not qualify to be paid for or reimbursed from the TIF funds.
- (4) The City will utilize the TIF funds, at its sole discretion, for the design and construction of other off-site roadway and bridge improvements to serve the Property not otherwise identified as Petitioner's responsibility under this subparagraph b.

c. Petitioner Construction of Roadway Improvements Within Property. Petitioner shall construct all road improvements within the Property as described in the PUD Development Plan.

10. **No Other Amendments.** Except as modified by this Amendment, the Restated Annexation Agreement, remains in full force and effect.
11. **Effective Date.** This Amendment will become effective upon execution of both parties and recording with the Pueblo County Clerk and Recorder.

[SIGNATURES BEGIN ON SUBSEQUENT PAGE]

THE CITY OF PUEBLO,
a colorado municipal corporation

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Page: 6 of 7 R 43.00 D 0.00 T 43.00
Gilbert Ortiz Clerk/Recorder, Pueblo County, Co

By: Nicholas Gradisar
Mayor, Nicholas A. Gradisar

Date: October 27, 2021

Attest: Marisa Stoller
City Clerk, Marisa Stoller



APPROVED AS TO FORM:

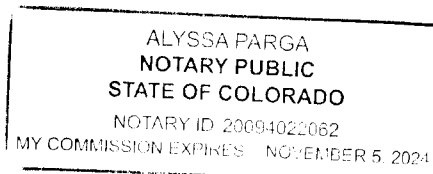
Daniel C. Kogorssek
City Attorney/Asst. City Attorney

State of Colorado)
) ss:
County of Pueblo)

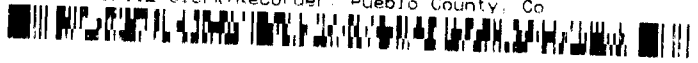
I attest that the foregoing instrument was acknowledged before me this 27 day of October, 2021, by Nicholas Gradisar as Mayor for the City of Pueblo.

Witness my hand and official seal.

Alyssa Parga
City Clerk, Notary Public



My commission expires November 5, 2024



PUEBLO HEIGHTS LLC,
a Colorado limited liability company, by
Jevin Investments, Inc., its manager

By: David Resnick

Date: 10/15/2021

Title: President

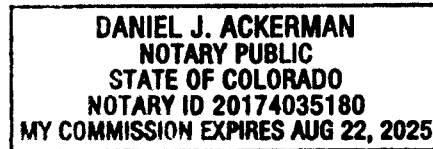
State of Colorado)
) ss.
County of PUEBLO)

The foregoing instrument was acknowledged before me this 15th day of OCTOBER, 2021 by
David Resnick, President of Jevin Investments, Inc., as Manager of Pueblo Heights LLC.

Witness my hand and official seal.

Daniel J. Ackerman
Notary Public

My commission expires AUGUST 22, 2025



RESOLUTION NO. 13916

A RESOLUTION APPROVING A RESTATED ANNEXATION AGREEMENT FOR THE AREA COMMONLY KNOWN AS THE NORTH VISTA ANNEXATION DESCRIBED AS LAND NORTH OF VISION HILLS PARKWAY AND WEST OF TROY AVENUE, AS APPROVED BY ORDINANCE NO. 7996

WHEREAS, BLH Properties, LLC, a Colorado Limited Liability Company, Pete Urenda a/k/a Albert Pete Urenda and Home Town Finance Co., a/k/a The Hometown Finance Co., a Colorado Corporation (herein collectively the "Petitioner") are the owners of property that was annexed into the City of Pueblo commonly known as the North Vista Annexation, Case No. A-07-04 and described as land north of Vision Hills Parkway and west of Troy Avenue as approved in Ordinance No. 7996 and are subject to the certain terms and conditions contained within the North Vista Annexation Agreement, Case No. A-07-04, desires to amend the existing Annexation Agreement through a new Restated Annexation Agreement.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Restated Annexation Agreement, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The President of the City Council is hereby authorized to execute said Agreement on behalf of Pueblo, a Municipal Corporation, and the Acting City Clerk shall affix the seal of the City thereto and attest to the same.

SECTION 3.

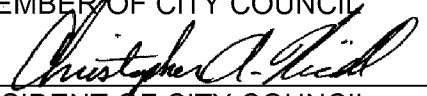
The officers and staff of the City are authorized and directed to perform any and all acts consistent with the intent of this Resolution and the attached Agreement to implement the transactions described there.

SECTION 4.

This Resolution shall become effective immediately upon Petitioner executing an agreement approving the amendment to the Annexation Agreement set forth in Section 1 and ratifying and confirming the Annexation Agreement which will thereafter be recorded by the City Clerk in the records of the Pueblo County Clerk and Recorder.

INTRODUCED March 12, 2018

BY: Ed Brown
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Brenda Armijo
ACTING CITY CLERK



RESTATED ANNEXATION AGREEMENT

This Restated Annexation Agreement entered into as of MARCH 12, 2018, by and between the City of Pueblo, a Municipal Corporation, (the "City") and BLH Properties, LLC, a Colorado Limited Liability Company, Pete Urenda a/k/a Albert Pete Urenda and Home Town Finance Co., a/k/a The Hometown Finance Co., a Colorado corporation (the "Petitioners"), WITNESSETH

WHEREAS, the term "Property" as used herein means and include the real property described in Exhibit A to the Annexation Agreement dated April 13, 2009; and,

WHEREAS, Petitioner represents and warrants that they are the owners of the Property in fee simple and are the successors in interest of the BLH Properties, LLC, a Colorado Limited Liability Company, Pete Urenda a/k/a Albert Pete Urenda and Home Town Finance Company a/k/a Hometown Finance Co., a Colorado Corporation as owners of the Property; and,

WHEREAS, the Property was previously annexed into the City in accordance with Ordinance No. 7996 titled "AN ORDINANCE ANNEXING THE AREA COMMONLY KNOWN AS THE NORTH VISTA ANNEXATION AND DESCRIBED AS LAND NORTH OF 47TH STREET AND WEST OF TROY AVENUE AND APPROVING AN ANNEXATION AGREEMENT RELATING THERETO" (the "Annexation Ordinance"). Attached to the Annexation Ordinance there is an Annexation Agreement dated April 13, 2009 ("Annexation Agreement"). The Annexation Ordinance was recorded with the Clerk and Recorder of Pueblo County, Colorado, on April 24, 2009, at Reception No. 1803116, and the Annexation Agreement was recorded with the Clerk and Recorder of Pueblo County, Colorado, on April 24, 2009, at Reception No. 1803118; and,

WHEREAS, Petitioners have contracted to sell the Property to Pueblo Heights LLC, a Colorado Limited Liability Company ("Pueblo Heights"); and,

WHEREAS, to complete the Property acquisition by Pueblo Heights, the Petitioner desires to amend the Annexation Agreement to provide for certain changes to the Development Plan ("Development Plan") as included Section II of the Annexation Agreement titled "Master Development Plan" and to Exhibit C-1 to the Annexation Agreement ("Exhibit C-1").

WHEREAS, the City desires to restate the Annexation Agreement setting forth certain new and modified terms and conditions.

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions set forth herein, the City and Petitioners agree follows:

I. REPRESENTATIONS AND WARRANTIES OF PETITIONERS

Petitioners hereby represent and warrant to, and covenant with, the City as follows:

1) Petitioner BLH Properties, LLC, is a Colorado Limited Liability Company duly organized and validly existing under the laws of the State of Colorado.

2) Petitioner Pete Urenda a/k/a Albert Pete Urenda is an individual resident of the State of Colorado.

3) Petitioner Home Town Finance Co., a/k/a The Home Town Finance Co., is a corporation duly organized and validly existing under the laws of the State of Colorado.

4) Petitioners have good and marketable fee simple title to the Property subject only to permitted encumbrances attached hereto as Exhibits "B-1" and "B-2".

5) Petitioners are authorized to take all actions required to execute, deliver and perform its obligations under this Restated Annexation Agreement, and carry out and consummate all of its transactions contemplated by this Restated Annexation Agreement.

6) This Annexation Agreement when executed and delivered constitutes a valid and legally binding obligation of the Petitioners enforceable against Petitioners according to its terms.

7) Neither the execution and delivery of this Annexation Agreement nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions or any restriction or any agreement or instrument to which the Petitioners are bound, or constitutes a default under any of the foregoing.

8) There is no litigation pending, or to the knowledge of Petitioners threatened, against the Petitioners or any person making the right of the Petitioners to execute this Annexation Agreement or to comply with the provisions hereof.

9) The representations and warranties of Petitioners contained herein will be true and correct in all material respects as of the date of recording of the Restated Annexation Agreement.

II. MASTER DEVELOPMENT PLAN

Petitioners have prepared and submitted a Master Development Plan for the Property contemporaneously with Petitioners' Planned Unit Development (PUD) as provided in Article III hereof.

1) Development Plan. The Development Plan shall be prepared in accordance with the requirements of Sections 12-4-5(a)(2) and 12-4-6(a) of the Pueblo Municipal Code. A development plan establishing the anticipated phasing of the development of the Property shall be prepared as part of the Development Plan.

Without the requirement of the construction and/or development of off-site sanitary sewer mains, the Petitioners shall be entitled to develop on the Property seven hundred fifty (750) lots within the areas crosshatched on Exhibit D-1 attached hereto and made a part hereof to be within the presently-developed Waste Water Service Area on the Property, said Lots to be replatted in accordance with Section 12 of the Pueblo Municipal Code. Petitioners will not be required to construct any off-site sanitary sewer and/or water distribution mains with regard to said Property, nor will it be required to construct any off-site roadways leading to said development property, except as otherwise defined and described in Exhibit C.

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Gilbert Ortiz Clerk/Recorder, Pueblo County, Co

2) Drainage Plan. The Drainage Plan shall be prepared in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo, Colorado, published June 9, 1997, or as same may hereafter be amended (MANUAL) and be certified by a Professional Engineer competent in the field of surface water drainage engineering and registered in the State of Colorado. Stormwater flows from subdivisions within the Property must be detained and/or retained as determined by the Director of Public Works. The Petitioners shall construct, at their sole expense, such detention and retention facilities, along with the complete stormwater conveyance system (collectively the "Drainage Facilities") in full compliance with the MANUAL and the City's Standard Construction Specifications and Standard Details, published March 28, 2005, or as either may be hereafter amended and as shown on the construction plans approved by the Director of Public Works. The Petitioners, at their sole expense, shall be responsible for the acquisition and dedication of all on-site and off-site easements to facilitate the installation of the Drainage Facilities on and off the Property and to provide conveyance for site stormwater run-off to downstream receiving waters.

The Drainage Plan shall address surface water drainage within the Property, upstream drainage tributary to the Property, as well as effects of the development of the Property upon downstream properties and drainage facilities. Negative impacts on the surrounding properties, as determined by the City's Director of Public Works, which are reasonably attributable to the development shall be mitigated through stormwater drainage improvements installed by and at the expense of the Petitioners. Additionally, if off-site downstream storm drainage facilities are determined to be inadequate, supplemental detention and retention facilities must be constructed by the Petitioners. The Drainage Plan shall include a phasing plan or schedule addressing proposed drainage improvements for the Property.

Stormwater releases, water quality management, and erosion control measures shall be incorporated into the Drainage Plan to meet current and future NPDES requirements.

The Petitioners must reduce peak flows and run-off volumes from the Property, to the maximum extent practicable, to levels that existed prior to any development within the Property, or to levels that are capable of being handled by the downstream drainage facilities, whichever is less, as determined by the Director of Public Works.

Prior to the approval of any subdivision of land within the Property, a subdivision drainage report must be submitted to the City's Director of Public Works for approval.

3) Sanitary Sewer Plan. The Sanitary Sewer Plan shall be prepared in accordance with the Sanitary Sewer Design Criteria and Policies for the City of Pueblo published May 12, 1999, or as same may hereafter be amended, and be certified by Professional Engineers competent in the field of sanitary sewer engineering and registered in the State of Colorado. The Sanitary Sewer Plan shall address the needs of the entire gravity-fed sanitary sewer drainage basin of which the property is a part. The sewer drainage basin shall be approved by the Director of Public Works. Associated impacts on City's existing non-backbone system (less than 15-inch diameter) and proposed sanitary sewer system shall be identified in the Sanitary Sewer Plan, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through the installation of sanitary sewer improvements installed by and at the expense of the Petitioners. The Sanitary Sewer Plan shall include a phasing plan or schedule for such sanitary sewer improvements.

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Gilbert Ortiz Clerk/Recorder Pueblo County, Co

If sanitary sewers within the Property are oversized to serve future development outside the Property but within the sewer drainage basin, an Agreement to partially recover costs of constructing oversized or off-site sewer collection system improvements ("Agreement") will be entered into between the Petitioners and the City in accordance with Chapter 5, Title XVI of the Pueblo Municipal Code or as same may hereafter be amended.

If sanitary sewers are constructed downstream from the Property which will serve future development outside the Property but within the sewer drainage basin, the Agreement may include provisions allowing the Petitioners to be reimbursed in accordance with said Chapter 5 of the City's ordinances.

The Agreement will comply with the City's then existing applicable ordinances but shall not require any cost recovery from the City except to the extent that funds therefore are made available by Resolution of the City Council pursuant to Section 16-11-4 of the Pueblo Municipal Code or as same may hereafter be amended for oversizing the sanitary sewer system within the Property.

4) Transportation Plan. The Transportation Plan shall be prepared in accordance with the criteria and general outline specified by the City Traffic Engineer and shall be supported by studies and reports prepared by Professional Engineers competent in the field of transportation and registered in the State of Colorado. Associated impacts on City's existing and proposed traffic and roadway systems shall be identified in the Transportation Plan and studies, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through traffic improvements constructed and installed by and at the expense of the Petitioners (such as, but not limited to, traffic signals, signal interconnect, conduit and flyer, deceleration/acceleration lanes, and median islands). The Transportation Plan shall include a phasing plan or schedule of such traffic improvements. If street improvements through or adjacent to property outside the Property are required to be constructed, the Petitioners will pay the entire cost of such improvements and thereafter be eligible for such cost recovery as may be provided under section 12-4-12 of the Pueblo Municipal Code or as same may hereafter be amended, but shall not be eligible for any cost recovery from the City.

5) Environmental Studies. In addition to the requirements of Section 12-4-6(b)(3) of the Pueblo Municipal Code, if the Property includes any land that is adjacent to or has previously been used for solid waste disposal by land filling, the Petitioners at their expense, shall provide the City with a Phase I environmental study of the Property and a further in-depth study of any potential methane gas presence on, or migration from or to the property. Such studies shall be performed by Professional Engineers competent in environmental engineering. The boundaries of the landfill area shall be identified on the Master Development Plan and shall be tested for the presence of methane gas in accordance with procedures approved by the appropriate State agencies and the results summarized as a comparison to State and Federal regulatory limits of the landfill area and at the exterior boundary of the landfill area.

Petitioners may submit the Master Development Plan to the Planning and Commission for Approval any time after the City Council has found the Petition for Annexation of the Property to be valid in accordance with the provisions of Section 31-12-107, C.R.S.; provided however, that the proposed Master Development Plan shall not be approved prior to the time the ordinance annexing the Property is approved on final presentation. The City may refuse to

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approve any building or occupancy portion or all of the Property until after a Master Development Plan is approved.

III. ZONING AND SUBDIVISION

(1) The Property shall be zoned as Planned Unit Development (PUD) which constitutes the land use classification most nearly corresponding to the land use classification into which the Property has been classified or will in the reasonable future be classified under the Pueblo Regional Comprehensive Development Plan. Petitioners further consent and agree that the annexation of the Property is contingent on City's approval of a final ordinance zoning the Property PUD and approving a PUD Development Plan therefore (the "Zoning Ordinance") contemporaneously with the approval of an ordinance annexing the Property to the City (the "Annexation Ordinance")

(2) After the Property is zoned PUD, or contemporaneously with the filing of the PUD Zoning Application, Petitioner shall submit to the Planning and Zoning Commission for approval a PUD Site Plan for all or a portion of the Property in conformity with the provisions and requirements of Section 17-8-7 of the Pueblo Municipal Code.

(3) No application for subdivision of all or any portion of the Property shall be submitted or considered by the City until after the Planning and Zoning Commission approves the PUD Site Plan for the portion of the Property sought to be subdivided. No building permit or occupancy permit shall be approved for any portion of the Property unless located within an approved subdivision for which a PUD Site Plan has been approved by the Planning and Zoning Commission.

IV. PUBLIC FACILITIES

The Petitioners shall dedicate land and right-of-way for public uses and facilities necessary to serve the Property or required as a result of the development of the Property as determined by the City, in its sole discretion, including, but not limited to, sanitary and storm sewers, drainage ways and facilities, utilities, streets, roadways, trails, travel systems and parks. The Petitioners at their expense shall construct and install all on-site improvements, and all off-site improvements as set forth in this Agreement (as well as those where an essential nexus exists between the off-site improvement and a legitimate government interest, and the cost of the improvement is roughly proportionate both in nature and extent to the impact of the proposed development of the Property), that are necessary to serve the Property or required as a result of the development of the property as determined by the City, in its sole discretion, including, but not limited to, streets, street lights, curbs and gutters, sidewalks, trails, bridges, traffic control devices, sanitary sewers, storm sewers, drainage and channel improvements and facilities. All such improvements shall meet and comply with applicable City Ordinances in effect at the time of installation of such improvements.

V. UTILITIES

The Petitioners shall comply with all applicable City of Pueblo (sanitary and storm sewers), Xcel (natural gas), Black Hills (electric), Comcast (cablevision), Pueblo Board of Water Works (water), and Qwest (telephone/data transmission) requirements for the installation of mains, lines, stations, and any other pertinent utility facilities in effect at the time of such installation.

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VI. COMPLIANCE WITH ORDINANCES

The development, subdivision and zoning of the Property shall meet and comply with all applicable ordinances, resolutions, regulations, and standards of the City now existing or hereafter enacted or amended.

VII. BINDING EFFECT

The covenants, restrictions, and agreements herein set forth are covenants running with the Property, shall run with and bind the Property, and shall extend to and be binding upon the Petitioners and their legal representatives, successors, assigns and transferees. The Petitioners expressly accept and agree to the covenants, restrictions and agreements set forth herein by execution of this Annexation Agreement and by the filing of their petition for annexation. If Petitioners default in any of their obligations under this Annexation Agreement, including, without limitation, land dedication obligations, City, upon notice given to Petitioners specifying the default, may withhold all subdivision, special area plan, and other development approvals as well as building and occupancy permits for any building or structure within the Property until such default has been corrected to the satisfaction of the City.

VIII. AMENDMENTS

Amendments to this Annexation Agreement may only be made through formal petition to and approval by Resolution of the City Council after such amendment has been submitted to and reviewed by the appropriate City Departments and such departments have submitted their findings and recommendations to the City Council. All amendments to the Master Development Plan must be approved by the Planning and Zoning Commission after review and recommendation by the appropriate City Departments.

IX. SEVERABILITY

If any section, clause, or other provision of this Annexation Agreement is for any reason determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect any of the remaining portions of this Annexation Agreement.

X. VESTED RIGHTS

As a condition of any consideration of the City annexing the Property, the Petitioners, for themselves and their successors and assigns waive and release all previously acquired or existing vested property rights attached to or established with respect to the Property.

The Petitioners acknowledge and agree that neither this Annexation Agreement nor any provision hereof, nor the annexation of the Property to the City, nor the approval of the Master Development Plan, zoning for subdivision, either separately or jointly: (a) creates or establishes as a property right in or for the benefit of the Petitioners or their successors or assigns, or with respect to the Property; or (b) constitutes a site-specific development plan. The terms “vested property right” and “site-specific development plan” shall have the same meanings as set forth in Section 17-12-2 of the Pueblo Municipal Code and Section 24-68-101, et seq., C.R.S.

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XI. BUILDING PERMITS

No building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Authority to occupy, construct or install any building, structure or other improvement on the Property except within a subdivision approved by the City after adoption of the ordinance annexing the Property which meets and complies with this Annexation Agreement and City's ordinances, standards, and regulations.

XII. DISCONNECTION

1) Disconnection by Petitioners. Petitioners acknowledge and agree that upon annexation of the Property, the Property shall become subject to this Annexation Agreement, the Charter, ordinances and rules and regulations of the City, but that City shall not have any obligation to furnish or extend the useful services to the property. Petitioners may, three (3) or more years after annexation, petition under Section 31-12-119, C.R.S., for disconnection from the City if the City does not, upon demand, provide the same municipal services to the Property on the same general terms and conditions as the rest of the City receives.

2) Disconnection by City. If, for any reason, the Master Development Plan is not approved and adopted by the Planning and Zoning Commission within ten (10) years from the date of this Annexation Agreement, proceedings may be instituted by the City to disconnect the Property from the City, and for such purpose, the Petitioners irrevocably consent to such disconnection proceedings and waive any and all rights to contest such disconnection.

XIII. CONTRACTUAL NATURE OF ANNEXATION AGREEMENT

The terms, conditions and obligations of this Annexation Agreement are and shall be construed to be purely contractual in nature, as terms, conditions and obligations voluntarily agreed to by the City and Petitioners prior to Annexation of the Property to the City. The terms, conditions and obligations imposed on Petitioners and the Property by this Annexation Agreement are not nor shall they individually or cumulatively be construed to be conditions upon granting land-use approvals within the meaning of sections 29-20-201 to 29-20-204, C.R.S.

XIV. SPECIAL IMPROVEMENTS, DEDICATIONS AND SYSTEM DEVELOPMENT FEES

In addition to the on-site and off-site improvements and land dedications required to be made by the provisions of this Annexation Agreement, Petitioners will construct and install improvements, dedicate the land, and pay or cause to be paid the system development fees described in Exhibit "C-1" attached hereto and incorporated herein. The improvements, dedication, and system development fees described as Exhibit "C-1" are in addition to and not in substitution for any improvements or dedications otherwise required by this Annexation Agreement.

XV. MISCELLANEOUS

1) Notice. All notices or other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered, or mailed by registered or certified mail postage prepaid, addressed as follows:

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(a) if to the City: Department of Public Works – City of Pueblo
211 East “D” Street, Pueblo, Colorado
Attention: Director of Public Works

(b) if to the Petitioners: Home Town Finance Co.
Attention: Mr. Jack Hunter
8511 Pine Drive
Beulah, CO 81023

BLH Properties, LLC
c/o Betty Lou Harvey
4909 N Interstate 25
Pueblo, CO 81008

Pete Urenda
15854 East 10th Place
Aurora, CO 80111

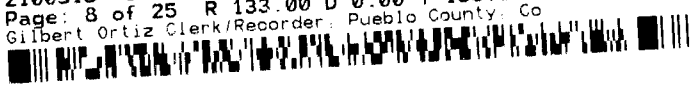
or to such other address as either party by written notice given hereunder may designate.

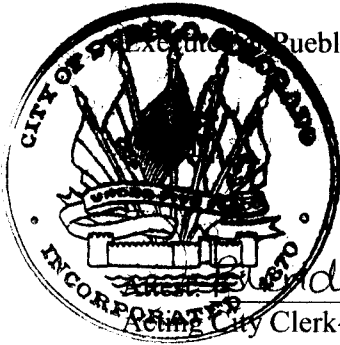
2) Governing Law. This Annexation Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without regard to conflict of law principles.

3) No Third-Party Beneficiaries. Nothing in this Annexation Agreement expressed or implied is intended to or shall be construed to confer upon, or to give to, any person other than the City and the Petitioners any right, remedy or claim under or by reason of this Annexation Agreement or any covenant, condition or stipulation hereof; and all the covenants, agreements and stipulations in this Annexation Agreement contained by and on behalf of the City or the Petitioners shall be for the exclusive benefit of the City and the Petitioners.

4) Singular, Plural. Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural. Words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting the other gender, if applicable.

5) Entire Agreement. All prior discussions, representations, understandings and agreements, whether oral or written, between the parties with respect to the subject matter of this Annexation Agreement are merged in this Annexation Agreement, which constitutes the entire agreement between the parties.

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Pueblo, Colorado as of the day and year first above written.

PUEBLO, a Municipal Corporation

By [Signature]
President of City Council-Christopher A. Nicoll

APPROVED AS TO FORM:

[Signature]
Asst. City Attorney

PETITIONERS:

BLH Properties, LLC, a Colorado
limited liability company

By Betty Lou Harvey manager
(Name) ((Title))

Pete Urenda a/k/a Albert Pete Urenda

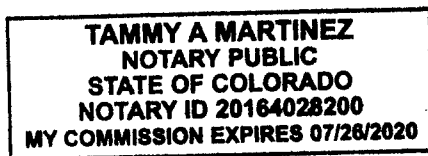
Home Town Finance

By Jack Hunter, President

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this 12th day of March, 2018, by Christopher A. Nicoll as President of City Council and Brenda Armijo as City Clerk of Pueblo, a Municipal Corporation. Witness my hand and official seal. My commission expires: July 26, 2020.

[SEAL]



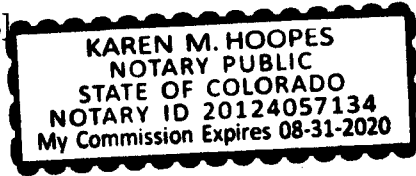
Tammy A Martinez
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)



The foregoing instrument was acknowledged before me this 8th day of March, 2018, by Betty Lou Harvey as Manager of BLH Properties, LLC, a Colorado Limited Liability Company. Witness my hand and official seal. My commission expires: 8/31/20.

[SEAL]



Karen M. Hoopes
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Pete Urenda a/k/a Albert Pete Urenda. Witness my hand and official seal. My commission expires: _____.

[SEAL]

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Jack Hunter as President of Home Town Finance. Witness my hand and official seal. My commission expires: _____.

[SEAL]

Notary Public

Executed at Pueblo, Colorado as of the day and year first above written.

PUEBLO, a Municipal Corporation

[SEAL]

Attest: _____
Acting City Clerk-Brenda Armijo

By _____
President of City Council-Christopher A. Nicoll

APPROVED AS TO FORM:

City Attorney

PETITIONERS:

BLH Properties, LLC, a Colorado
limited liability company

By _____,
(Name) ((Title)


Pete Urenda a/k/a Albert Pete
Urenda

Home Town Finance

By Jack Hunter, President

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as President of City Council and _____ as City Clerk of Pueblo, a Municipal Corporation. Witness my hand and official seal. My commission expires: _____.

[SEAL]

Notary Public

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Notary Public

The foregoing instrument was acknowledged before me this 6 day of March, 2018, by Pete Urenda a/k/a Albert Pete Urenda. Witness my hand and official seal. My commission expires: 6/7/2021.

Notary Public

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Jack Hunter as President of Home Town Finance. Witness my hand and official seal. My commission expires:_____.

Notary Public

Executed at Pueblo, Colorado as of the day and year first above written.

PUEBLO, a Municipal Corporation

[SEAL]

Attest: _____
Acting City Clerk-Brenda Armijo

By _____
President of City Council-Christopher A. Nicoll

APPROVED AS TO FORM:

City Attorney

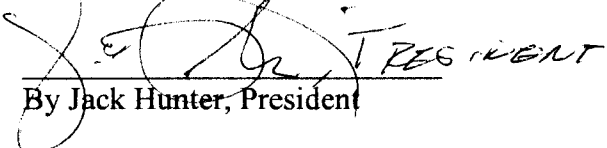
PETITIONERS:

BLH Properties, LLC, a Colorado
limited liability company

By _____,
(Name) ((Title)

Pete Urenda a/k/a Albert Pete
Urenda

Home Town Finance


By Jack Hunter, President

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as President of City Council and _____ as City Clerk of Pueblo, a Municipal Corporation. Witness my hand and official seal. My commission expires: _____.

[SEAL]

Notary Public

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STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)



The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as _____ of BLH Properties, LLC, a Colorado Limited Liability Company. Witness my hand and official seal. My commission expires: _____.

[SEAL]

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Pete Urenda a/k/a Albert Pete Urenda. Witness my hand and official seal. My commission expires: _____.

[SEAL]

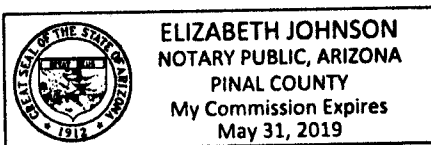
Notary Public

STATE OF COLORADO) ARIZONA
) ss.
COUNTY OF PUEBLO) PINAL

The foregoing instrument was acknowledged before me this 7th day of MARCH, 2018, by Jack Hunter as President of Home Town Finance. Witness my hand and official seal. My commission expires: MAY 31, 2019

[SEAL]

Elizabeth Johnson
Notary Public





CONSENT AND APPROVAL

Pueblo Heights LLC, a Colorado Limited Liability Company ("Pueblo Heights") consents to and approves the foregoing Annexation Agreement. Pueblo Heights agrees that if title to the Property therein described is acquired by Pueblo Heights from or through the Petitioners, the Annexation Agreement and all its provisions shall become binding upon Pueblo Heights and its right, title and interest in and to the Property, and shall be enforceable by and against Pueblo Heights, to the same extent and effect as if Pueblo Heights was the original Petitioner.

Executed at Boulder, Colorado March 05, 2018.

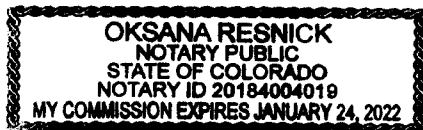
Pueblo Heights, a Colorado Limited Liability Company

By [Signature]
Name: David Resnick
Title: Manager

STATE OF Colorado
COUNTY OF Boulder) ss.

The foregoing instrument was acknowledged before me this 5th day of March, 2018, by David Resnick as Manager of Pueblo Heights, a Colorado Limited Liability Company.

[SEAL]



[Signature]
Notary Public

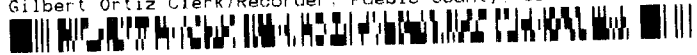


EXHIBIT "A"

**NORTH VISTA
LAND DESCRIPTION**

1. AREA TO BE ANNEXED

All of Fountain Lake Subdivision. Pueblo Col.

AND

Section 5: SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, W $\frac{1}{2}$ of the SE $\frac{1}{4}$, NW $\frac{1}{4}$ of the SW $\frac{1}{4}$

Section 6: NE $\frac{1}{4}$ of the SE $\frac{1}{4}$

Section 7: NW $\frac{1}{4}$

Section 8: NE $\frac{1}{4}$ all being in Township 20 South, Range 64 West of the 6th P.M.

Total Annexation boundary 1188.46 acres, more or less

EXCEPTING THEREFROM:

All of Lots 23 to 27 both inclusive, Block 55 and all of New York Avenue and all of the alley adjacent thereto;

AND

All of Lots 14 to 17 both inclusive, Block 55 and all of Delaware Avenue and Schuler Avenue and all of the alley adjacent thereto;

AND

All of Lots 1 to 28 both inclusive, Block 86 and all of Madison Avenue, Oriental Avenue, Columbia Avenue, Lafayette Avenue and all of the alley adjacent thereto;

AND

All of Lots 15 and 16, Block 110 and all of Prospect Avenue and Lake Avenue and all of the alley adjacent thereto;

AND

All of Block 181 and all of Santa Fe Avenue, Best Place and Utah Place and all of the alley adjacent thereto;

AND

All of Block 185 and all of Santa Fe Avenue, Euclid Place and Oak Place and all of the alley adjacent thereto all being a portion of Fountain Lake Subdivision. Pueblo Col.

Total exceptions 16.37 acres, more or less

Total Annexation 1172.09 acres, more or less

2. PROPOSED NEW CITY LIMITS LINE:

Beginning at the Northwest corner of the NW $\frac{1}{4}$ of Section 7, Township 20 South, Range 64 West of the 6th P.M. being a point on the Present City Limits line; thence Easterly along the North line of the NW $\frac{1}{4}$ of said Section 7 to a point on the Southwest corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6; thence Northerly along the West line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6 to the Northwest corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6; thence Easterly along the Northerly line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6 to the Southwest corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6; thence Northerly along the Westerly line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6 to a point on the Northerly line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6; thence Easterly along the Northerly line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 6 to the Southwest corner of the NW $\frac{1}{4}$ of Section 5; thence Northerly along the Westerly line of the NW $\frac{1}{4}$ of said Section 5 to the Northwest corner of the NW $\frac{1}{4}$ of said Section 5; thence Easterly along the Northerly line of the NW $\frac{1}{4}$ of said Section 5 to the Northeast corner of the NW $\frac{1}{4}$ of said Section 5; thence Southerly along the Easterly line of the NW $\frac{1}{4}$ of said Section 5 to the Northwest corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 5; thence Easterly along the Northerly line of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 5 to the Northeast corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 5; thence Southerly along the Easterly line of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the East line of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of said Section 5 to a point on the Northerly line of the NE $\frac{1}{4}$ of Section 8; thence Easterly along the Northerly line of the NE $\frac{1}{4}$ of said Section 8 to the Northeast corner of the NE $\frac{1}{4}$ of said Section 8; thence Southerly along the Easterly line of the NE $\frac{1}{4}$ of said Section 8 to the Southeast corner of the NE $\frac{1}{4}$ of said Section 8 and the Present City Limits line and the Point of Terminus.

EXHIBIT "B"

Not Applicable

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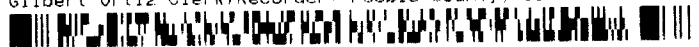


EXHIBIT C-1

SPECIAL IMPROVEMENTS, DEDICATIONS AND FEES

1. Trails. The Petitioners shall design and construct, and cause to be maintained, by themselves or by means of a homeowners' association, trails throughout the Property connecting, in accordance with an approved final subdivision plat, to existing trails within the City of Pueblo, as described in the PUD Development Plan. Trails shall be located in general in accordance with the PUD Development Plan, provided that the final location and alignment within a subdivision shall be determined at the time of subdivision review.

2. Parks. The Petitioners shall develop park sites on the Property. The minimum amount of developed park land required is seven and one-half (7.5) acres of developed park land per one thousand (1,000) population, as described in the PUD Development Plan (the "Developed Park Sites").

a. The Developed Park Sites shall be developed according to the standards contained in the PUD Development Guide and the Park Development Standards approved by the Planning and Zoning Commission, as amended. The Petitioners shall construct each park site according to the construction plans approved by the City, within one hundred eighty (180) days after the first building permit has been issued for the construction of a residential dwelling unit within a subdivision that contains or abuts a Developed Park Site, as described in the Development Plan.

b. Developed Park Sites of ten (10) acres or more shall be conveyed by the Petitioners to the City by warranty deed, if the City, in the exercise of its sole discretion, determines that it will accept such Developed Park Site for maintenance and ownership, prior to the recording of any final subdivision plat for a development area or portion thereof which contains such Developed Park Site. If the City determines not to accept such Developed Park Site, as provided herein, then such Developed Park Site shall be owned and maintained by the Petitioners or homeowners' association.

c. The Developed Park Sites that are less than ten (10) acres shall be owned and maintained by the Petitioners or a homeowners' association.

3. School Land Dedication. The Petitioners shall convey to the City, by warranty deed, a maximum of twenty (20) acres of real property within the Property as described in the PUD Development Plan with location(s) mutually identified by Petitioners and the City in a final subdivision plat (the "School Property") within ninety (90) days of written request by the City; provided, however, that, if the School Property has not been included within a final subdivision plat, the foregoing time frame shall be extended for whatever period is necessary to obtain the City's approval and recordation of a final subdivision plat establishing the School Property as a legally conveyable parcel, or to obtain the City's approval of a subdivision exemption. The Petitioners acknowledge and agree that the School Property may be conveyed by the City, in the exercise of its sole discretion, to a local school district or charter school as a school site.

4. Fire Station Land Dedication and Construction. The Petitioners shall convey to the City, by warranty deed within ninety (90) days of the City's written request, a parcel of land totaling two (2) acres within the Property as described in the PUD Development Plan with a



location identified by appropriate studies (the "Fire Station Property"); provided, however, that the foregoing time frame shall be extended for whatever period is necessary to obtain the City's approval and recordation of a final subdivision plat establishing the Fire Station Property as a legally conveyable parcel, or to obtain the City's approval of a subdivision exemption. The Petitioners acknowledge and agree that prior to the issuance of the building permit for the two thousandth (2,000th) residential dwelling unit within the Property or any additional building permits, they, or the North Vista Metropolitan District on their behalf, shall construct and install a facility and related improvements adequate for the City to operate as a fire station.

5. Construction of Offsite Sanitary Sewer. The Petitioners shall design and construct, at no cost to the City, within one hundred eighty (180) days after the seven hundred fifty first (751st) building permit is issued to construct any dwelling unit on the Property, an eighteen inch (18") sanitary sewer main and all related facilities in Jerry Murphy Road from Candytuft Boulevard to the south boundary of the Property. Petitioners must complete construction of the sanitary sewer improvements according to design and construction standards required by the City and the approved Sanitary Master Plan. Petitioners may apply for cost recovery for the off-site sanitary sewer improvements described above, pursuant to Section 16-5-5 of the Pueblo Municipal Code.

6. Construction of Road Improvements.

a. Design and Construction of Jerry Murphy Boulevard. Jerry Murphy Road shall be rebuilt, by the City, at existing width from Candytuft Boulevard to Vision Hills Parkway (formerly 47th Street). For the purpose of this section, the term "rebuild" constitutes milling five (5) inches of existing material and reshaping the then overlay with four (4) inches of asphalt. Jerry Murphy Road from Vision Hills Parkway to Home of Heroes Parkway shall be designed and constructed, by Petitioners at no cost to the City, as a four lane, median divided, principal arterial roadway section, including acceleration and deceleration lanes, as shown on Exhibit C-2.

1) In order to fund the costs to rebuild Jerry Murphy Road between the intersection of Candytuft Boulevard and Vision Hills Parkway as shown on Exhibit C-2, Petitioners and any subsequent owner of all or any part of the Property shall, as a condition of the issuance of a building permit for the construction of any one or more dwelling units within the Property, pay a traffic impact fee of Four Thousand Five Hundred Dollars (\$4,500.00) for each dwelling unit to be constructed within the Property ("TIF"), up to a maximum of Four Hundred Fifty Thousand Dollars (\$450,000.00). Beginning with the 2018 calendar year, the TIF amount shall be adjusted annually based on the first quarter Construction Cost Index published by the Colorado Department of Transportation. The TIF shall be paid to the City at the time a building permit is issued for each dwelling unit and shall be deposited in an interest-bearing account identified as the "Jerry Murphy Road Off-Site Improvements Account." Monies on deposit in the Jerry Murphy Road Off-Site Improvements Account shall only be used for the Jerry Murphy Road Off-Site Rebuild. In the event that the costs of the Jerry Murphy Road Off-Site Rebuild are less than the amounts deposited in the Jerry Murphy Road Off-Site Improvements Account, the remaining balance shall be used for future public infrastructure improvements needed for the Property. Petitioners, for itself and its successors and assigns, including all subsequent owners of land within the Property, stipulate and agree that there is an essential nexus between the TIF and the City's legitimate interest in providing for the rebuilding of Jerry Murphy Road between the



intersection of Candytuft Boulevard and Vision Hills Parkway as shown on Exhibit C-2 and that the TIF is roughly proportional both in nature and extent to the impact of the proposed development of the Property.

2) Notwithstanding the provisions of the foregoing paragraph 6. a. 1), The City may in its sole discretion adopt an ordinance that authorizes the cost to rebuild Jerry Murphy Road between the intersection of Candytuft Boulevard and Vision Hills Parkway as shown on Exhibit C-2 to be paid from the City's Highway Users Trust Fund ("HUTF Fund"). In such event, the moneys deposited into the TIF, up to the full cost of the rebuild, but in any event not to exceed a maximum of Four Hundred Fifty Thousand Dollars (\$450,000.00), shall be reimbursed to the City's HUTF Fund.

3) Within one hundred eighty (180) days after the seven hundred fifty first (751st) building permit is issued to construct any dwelling unit on the Property, Petitioners must construct Jerry Murphy Road as stated above between the intersection of Vision Hills Parkway and Future Home of Heroes Parkway as shown on Exhibit C-2. If any portion of the improvements required in this subparagraph are tributary to the drainage channel located approximately five hundred (500) feet south of the south boundary line of the Property (the "Culvert"), Petitioners shall be responsible to increase the size and capacity of the Culvert as determined by the final storm drainage study and then prepared at Petitioners' cost in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City, published June 9, 1997, or as same may later be amended ("MANUAL") and be certified by a Professional Engineer competent in the field of surface water drainage engineering and registered in the State of Colorado.

b. Design and Construction of Home of Heroes Parkway West of Property. Home of Heroes Parkway shall be designed and constructed as described in this Paragraph as a major arterial roadway section, at no cost to the City, including any utilities, acceleration lanes, deceleration lanes, bridges and intersection improvements, from Jerry Murphy Boulevard across Fountain Creek to Dillon Drive (collectively "Home of Heroes Expansion"), according to the following schedule:

1) The Petitioners shall, at no cost to the City, not later than the date of the issuance of the building permit for the eight hundred and fiftieth (850th) residential dwelling unit upon the Property, acquire and deed to the City by warranty deed fee simple title to the right-of-way necessary for the construction of the Home of Heroes Expansion as shown on Exhibit C-2.

2) The Petitioners shall, at no cost to the City, and not later than the date the fifteen hundredth (1500th) building permit is issued to construct any residential dwelling unit on the Property (a) commence construction of Home of Heroes Expansion, including a two-lane bridge structure across Fountain Creek in accordance with City-approved plans and specifications (the "Fountain Creek Bridge") as shown on Exhibit C-2; and (b) construct Home of Heroes Expansion as one-half (1/2) of an arterial roadway section between the western boundary of the Property and Dillon Drive, including all utilities, acceleration and deceleration lanes, and intersection improvements required by the standards of the City then in effect.

3) The Home of Heroes Expansion shall be completed no later than eighteen (18) months after the date of the fifteen hundredth (1500th) building permit is



issued to construct a residential dwelling unit upon the Property. If Petitioners, after good faith efforts as determined by the City, are unable to acquire from third-parties the necessary right-of-way for the construction of the Home of Heroes Expansion, the City will, to the extent legally permissible, exercise its power of eminent domain to acquire the right-of-way, provided, that Petitioners first deposit with the City an amount to be determined by the City Attorney for all compensation, damages, costs and expenses, including appraisal, expert witness and attorney fees associated therewith.

c. Design and Construction of Vision Hills Parkway South of Property:

If not already completed, Vision Hills Parkway shall be constructed by the City as a two-lane collector roadway section as shown on Exhibit C-2 from Jerry Murphy Road to the south boundary of the Property.

1) Vision Hills Parkway South of Property Assessments. In order to fund the costs for the construction of a portion of Vision Hills Parkway that is not adjacent to the property between Jerry Murphy Road and Walking Stick Boulevard ("Vision Hills Parkway Off-Site Construction"), Petitioners and any subsequent owner of all or any part of the Property shall, as a condition of the issuance of a building permit for the construction of any one or more dwelling units within the Property, pay a traffic impact fee of One Thousand Dollars (\$1,000.00) for each dwelling unit to be constructed within the Property ("TIF"), up to a maximum of Seven Hundred Fifty Thousand Dollars (\$750,000.00). Beginning with the 2018 calendar year, the TIF amount shall be adjusted annually based on the first quarter Construction Cost Index published by the Colorado Department of Transportation. The TIF shall be paid to the City at the time a building permit is issued for each dwelling unit and shall be deposited in an interest-bearing account identified as the " Vision Hills Parkway Off-Site Improvements Account." Monies on deposit in the Vision Hills Parkway Off-Site Improvements Account shall only be used for the Vision Hills Parkway Off-Site Construction. In the event that the costs of the Vision Hills Parkway Street Off-Site Construction are less than the amounts deposited in the Vision Hills Parkway Off-Site Improvements Account, the remaining balance shall be used for future public infrastructure improvements needed for the Property. Petitioners, for itself and its successors and assigns, including all subsequent owners of land within the Property, stipulate and agree that there is an essential nexus between the TIF and the City's legitimate interest in providing for the construction and development of Vision Hills Parkway south of the Property and that the TIF is roughly proportional both in nature and extent to the impact of the proposed development of the Property.

d. Roadway Improvements Within Property:

In addition to the foregoing road improvements, Petitioners shall construct all road improvements within the Property as described in the PUD Development Plan.

7. Withholding of Building Permits. If any of the above requirements are not timely met and complied with for any reason, the City may, in its absolute discretion (a) refuse to issue additional permits for construction within the Property and/or (b) cancel all then existing and outstanding building permits for which construction has not commenced.



8. System Development Fees for Adjacent Properties:

a. The Home of Heroes Expansion described in paragraph 6.b. above, will materially benefit real property located in the unincorporated area of Pueblo County, Colorado that abuts the Property, including, but not limited to, the two (2) abutting parcels consisting of approximately 640 acres, as set forth in attached Exhibit C-2 (hereinafter collectively referred to as "Adjacent Properties"). In the event that all or a portion of the Adjacent Properties are annexed to the City, City, to the extent legally permissible, will, by provisions inserted in annexation agreements for the Adjacent Properties, require the owners of Adjacent Properties to pay a system development fee (the "SDF") to the North Vista Metropolitan District (the "District") as reimbursement for a portion of the actual cost of construction including land acquisition and financing for the Home of Heroes Expansion reduced to the extent of any financial assistance provided by governmental funding including, but not limited to, grants and tax increment financing (collectively the "Net Construction Costs").

b. The SDF shall be based on the Net Construction Costs and the benefit of the Home of Heroes Expansion to the Adjacent Properties as determined by the District and approved by the City.

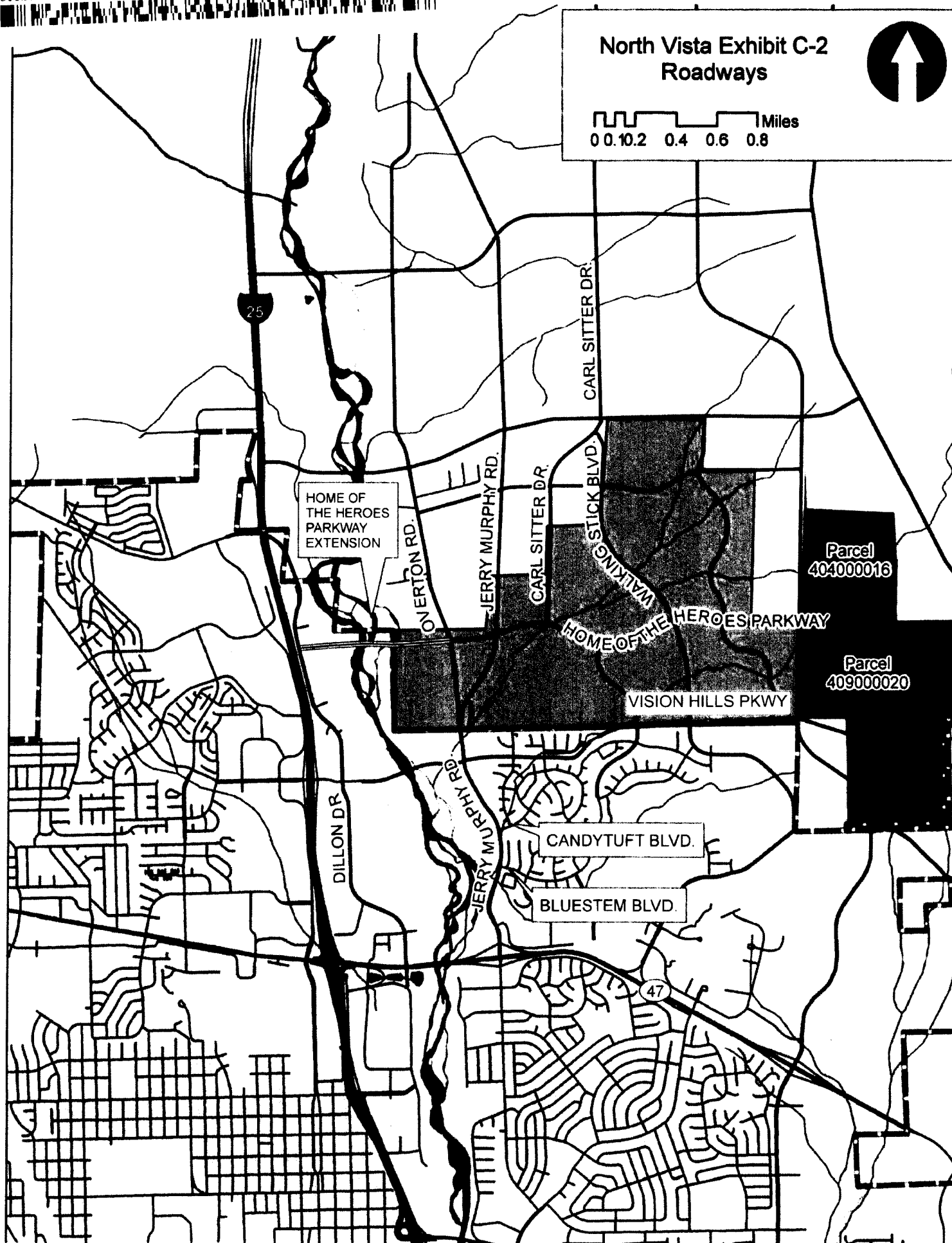
c. As a condition precedent to the issuance of a building permit for construction upon any of the Adjacent Properties annexed to the City, the owner thereof shall pay to the District the SDF.

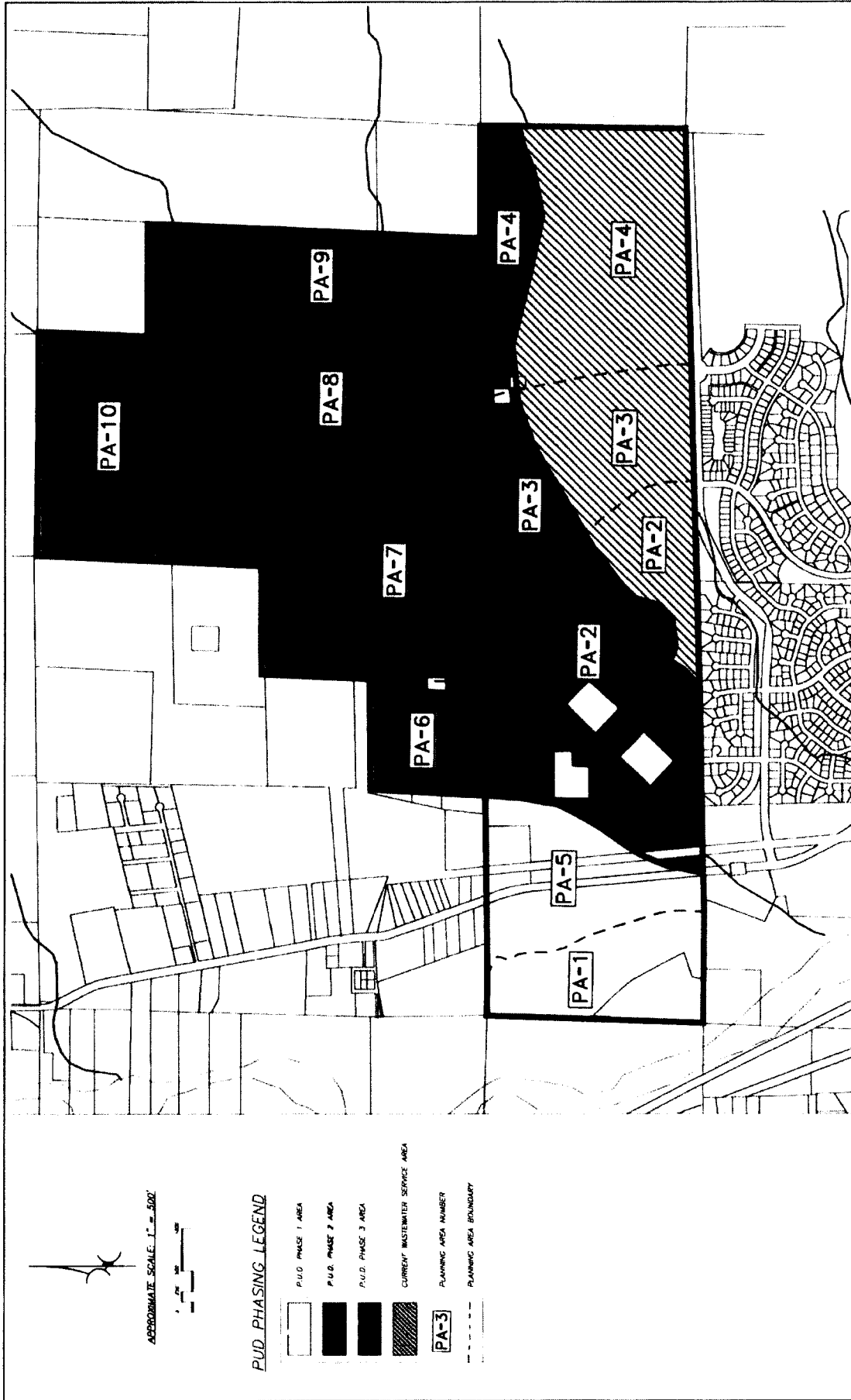
d. All SDF's payable to the District shall be applied to the Net Construction Costs and upon payment in full of the Net Construction Costs, the balance of the SDF's paid to the District shall be retained by District and used solely for the repair, maintenance and replacement of the Home of Heroes Expansion or any part thereof.

e. In lieu of the payment of the SDF, Adjacent Properties annexed to the City may with the consent and approval of the owners of the Adjacent Properties, the District and the City be included within the District.

f. Prior to the imposition of the SDF, City and District shall enter into an agreement incorporating the foregoing in form and content approved by the City Attorney.

9. Additional Provisions with Regard to Recreational Vehicle Park ("RV Park"). Petitioners are requesting the City support the developer's request to amend the North Vista Master Plan, Planned Unit Development ("North Vista PUD") that is applicable to the Property that will, among other changes to the North Vista PUD, allow the development of a RV Park in areas PA-1 and PA-5 of the PUD Phasing Plan. The Annexation Agreement is amended to provide that any building permits issued for RV Park spaces will not apply to the building permit requirements for dwelling units set forth above, provided the Petitioners are in all respects in full compliance with this Agreement as amended.





North Vista

Planned Unit Development - Amended Phasing Plan

Exhibit D-1

NORTHSTAR
 NORTHSTAR CONSULTING, INC.
 1111 S. 10th St., Suite 100
 Pueblo, CO 81001
 TEL: 719.542.1234 FAX: 719.542.1235
 WWW.NORTHSTARCONSULTING.COM

PROJECT: 10000000000000000000
 SHEET: 11 OF 11
 DATE: 03/29/2018
 DRAWN BY: J. L. BROWN
 CHECKED BY: J. L. BROWN
 SCALE: AS SHOWN



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING A COOPERATION AGREEMENT WITH PUEBLO TRIPLE AIM CORPORATION AND AUTHORIZING THE MAYOR TO EXECUTE SAME, ESTABLISHING PROJECT NO. PS2214, AND ACCEPTING, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$71,184.48 TO SAID PROJECT

SUMMARY:

A Cooperation Agreement by and between Pueblo Triple Aim, a Colorado nonprofit corporation, and the City of Pueblo, attached hereto and having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement on behalf of the City, and the City Clerk shall affix the seal of the City thereto and attest same. Project No. PS2214 is hereby established. Funds in the amount of \$71,184.48 shall be accepted from Pueblo Triple Aim and budgeted and appropriated into the said Project to be used solely for the purposes agreed to pursuant to the terms of the Agreement

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No. 10085 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2022.

On March 14, 2022, Ordinance No. 10130 was approved by City Council approving the cooperation agreement with Pueblo Triple Aim Corporation and Health Colorado Inc. accepting, budgeting and appropriating funds to establish a full-time position and continue a part-time telehealth position connected with the DOTS program.

BACKGROUND:

The Pueblo Fire Department works closely in partnership with other agencies in the community to help citizens navigate healthcare resources. Pueblo Triple Aim Corporation is one such local non-profit community partner with the mission of making Pueblo County the healthiest county in Colorado through community problem solving and cross-sector collaboration. The Directing Others to Services (DOTS) program consists of a trained outreach team that visits individuals who overutilize

911/Emergency Rooms and educates and connects them to resources. This has routinely decreased their “usage” of unnecessary emergency medical services by 50%.

FINANCIAL IMPLICATIONS:

Project No. PS2214 has been established, with the passage of a previous ordinance accepting Funds in the amount of \$71,184.48 for the purposes of funding the salary and benefits of the full-time coordinator position and part time telehealth position in 2023. The funding will be provided by Pueblo Triple Aim Corporation through September of 2023 with the remaining three months of the position covered by the General Fund at a cost of \$17,796.21. The intent is to reapply for funding each year for continued financial support.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The no action alternative would be to retain current staffing levels and not provide the necessary full-time staff support for the DOTS Program.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Cooperation Agreement with Pueblo Triple Aim Corporation - 2022

ORDINANCE NO. 10336

AN ORDINANCE APPROVING A COOPERATION AGREEMENT WITH PUEBLO TRIPLE AIM CORPORATION AND AUTHORIZING THE MAYOR TO EXECUTE SAME, ESTABLISHING PROJECT NO. PS2214, AND ACCEPTING, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$71,184.48 TO SAID PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

A Cooperation Agreement by and between Pueblo Triple Aim, a Colorado nonprofit corporation, and the City of Pueblo, attached hereto and having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement on behalf of the City, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 2.

Project No. PS2214 is hereby established. Funds in the amount of \$71,184.48 shall be accepted from Pueblo Triple Aim and budgeted and appropriated into the said Project to be used solely for the purposes agreed to pursuant to the terms of the Agreement.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Cooperation Agreement to implement the policies and procedures described therein.

SECTION 4.

This Ordinance is subject to and conditioned upon City Council passage and approval of an ordinance approving amendments to staffing and salary schedule ("Staffing and Salary Ordinance Amendments") providing for staffing contemplated by the Agreement and creating the position "Civilian Project Manager-DOTS Program". As such, this Ordinance shall only become effective upon the date of final action by the Mayor and City Council approving this Ordinance and the Staffing and Salary Ordinance Amendments.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

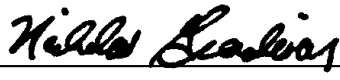
Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:



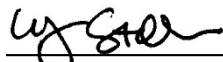
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

COOPERATION AGREEMENT BETWEEN TRIPLE AIM CORPORATION AND THE CITY
OF PUEBLO WITH RESPECT TO THE HEALTH COLORADO INC. COMMUNITY
REINVESTMENT GRANT

This Cooperation Agreement (“Agreement”) is entered into this 24 Oct 2022 by and between Pueblo Triple Aim Corporation, a Colorado nonprofit corporation (“PTAC”), and Pueblo, a municipal corporation (“City”), with respect to the Health Colorado, Inc. Community Reinvestment Grant (“Grant Agreement”) awarded by Health Colorado, Inc. to PTAC. A copy of the Grant Agreement is attached hereto, labelled Exhibit 1 and incorporated herein. In consideration of the mutual covenants herein contained, the parties agree as follows:

1. Under this Agreement, PTAC will:
 - a. Sign the Grant Agreement from Health Colorado.
 - b. Abide by all stipulations in the Grant Agreement.
 - c. Remit and pay to the City proceeds under the Grant Agreement in the amount of \$71,184.48 (“Grant Proceeds”), which amount will be expended by City solely for the purposes set forth in the Grant Agreement.
2. Under this Agreement, the City will:
 - a. Expend the Grant Proceeds in performance of the DOTS program and solely for the purposes and to perform the scope of work set forth in the Grant Agreement; provided, however, the part-time position Technology Specialist shall work no more than 1380 hours during 2023 and prior to the expiration of the Grant on September 30, 2023 and the Civilian Project Manager shall not be required to be employed past September 30, 2023 absent additional approved funding.
 - b. Abide by all stipulations in the Grant Agreement. It is acknowledged by PTAC that City is a Colorado municipal corporation and that the Grant Agreement requirements with respect to and PTAC representations regarding non-profit organizations are inapplicable to City
 - c. Provide any receipts or financial documents needed by Health Colorado, Inc. to show funding was used as intended.
 - d. Assist PTAC in filing reports required under the Grant Agreement.

Executed the day and year first above written.

Alexis Ellis, Executive Director
on behalf of Pueblo Triple Aim Corporation

Nicholas A. Gradisar, Mayor
on behalf of the City of Pueblo

ATTEST: _____
City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION TO THE AUTHORIZED STAFFING OF THE FIRE DEPARTMENT ENTITLED COMMUNITY RISK REDUCTION COORDINATOR IN SUPPORT OF THE DIRECTING OTHERS TO SERVICES (DOTS) PROGRAM

SUMMARY:

The Fire Department requests that one (1) full-time position be added to provide management and coordination of the Directing Others to Services (DOT) program in partnership with Pueblo Triple Aim Corporation. Initial funding for the position will come from Pueblo Triple Aim Corporation, which will cover the first nine months of the position. The final quarter of the year will be paid out of the General Fund.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No. 10085 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2022.

On March 14, 2022, Ordinance No. 10130 was approved by City Council approving the cooperation agreement with Pueblo Triple Aim Corporation and Health Colorado Inc. accepting, budgeting and appropriating funds to establish part-time positions connected with the DOTS program and training on Telehealth services.

BACKGROUND:

The Pueblo Fire Department works closely in partnership with other agencies in the community to help citizens navigate healthcare resources. Pueblo Triple Aim Corporation is one such local non-profit community partner with the mission of making Pueblo County the healthiest county in Colorado through community problem solving and cross-sector collaboration. The Directing Others to Services (DOTS) program consists of a trained outreach team that visits individuals who overutilize 911/Emergency Rooms and educates and connects them to resources. This has routinely decreased their "usage" of unnecessary emergency medical services by 50%.

In March of 2022, funding through Colorado Health, Inc., was provided to support the hire of a part-time position to train those using DOTS program services around telehealth capabilities. This was memorialized through an ordinance passed by City Council as part of a cooperation agreement.

Given the success of the DOTS Program, with the approval of this ordinance, a full-time civilian project management position entitled Community Risk Reduction Coordinator will be created with an anticipated hire date in 2023. This position will provide overall program coordination of the DOTS program on a full-time basis, will be a classified position within the City and subject to all Civil Service rules with respect to hiring. Passage of the staffing ordinance will allow the City to begin recruitment activities to fill the position with an anticipated start date of January 1, 2023.

FINANCIAL IMPLICATIONS:

Project No. PS2214 has been established by the passage of a previous ordinance which accepted funds in the amount of \$71,184.48 for the purposes of funding the salary and benefits of the full-time coordinator position for nine months and continued support of the part-time telehealth position in 2023. The funding will be provided by Pueblo Triple Aim Corporation through September of 2023 with the remaining three months of the position covered by the General Fund at a cost of \$17,796.21. The intent is to reapply for funding each year for continued financial support.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The alternative would be to retain current staffing levels and not provide the necessary full-time staff support for the DOTS Program.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10337

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION TO THE AUTHORIZED STAFFING OF THE FIRE DEPARTMENT ENTITLED COMMUNITY RISK REDUCTION COORDINATOR IN SUPPORT OF THE DIRECTING OTHERS TO SERVICES (DOTS) PROGRAM

WHEREAS, it is necessary to add an additional full-time position of Community Risk Reduction Coordinator in the Fire Department in order to provide ultimate efficiency and functionality to support activities of the Directing Services to Others (DOTS) Program; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following section captioned "Fire" of Ordinance No. 10085, being the FY 2022 Staffing Ordinance, is amended as follows:

Fire

Fire Chief	1
Deputy Fire Chief	2
Assistant Fire Chief	3
Fire Captain	33
Emergency Medical Officer	31
Fire Engineer	36
Fire Inspector	3
Firefighter	38
<u>Community Risk Reduction Coordinator</u>	<u>1</u>
Administrative Technician	1
Senior Office Assistant	1
Total	[149] <u>150</u>

SECTION 2.

Project No. PS2214 is hereby established. Funds in the amount of \$71,184.48 shall be accepted from Pueblo Triple Aim and budgeted and appropriated into the said Project to be used solely for the purposes agreed to pursuant to the terms of the Agreement.

SECTION 3.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the Fire Department and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR COMMUNITY RISK REDUCTION COORDINATOR

SUMMARY:

Attached for consideration is an amended Pay Plan Ordinance that reflects the addition of the pay rate and salary schedule for the classification of Community Risk Reduction Coordinator. Funding for this position will be covered for nine months by Triple Aim Corporation and the last three months of the year will be paid out of the General Fund.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No.10092 was approved by City Council. This Ordinance provided the classification and pay plan for fiscal year 2022.

BACKGROUND:

The City of Pueblo and Pueblo Fire Department desires to provide full-time civilian program management and coordination to the Directing Others to Services (DOTS) Program.

The Pueblo Fire Department works closely in partnership with other agencies in the community to help lower overutilization of emergency medical services in the community and to connect citizens to appropriate healthcare and social services. In conjunction with other partner agencies. The Directing Others to Services (DOTS) Program was developed, consisting of a trained outreach team that visits individuals who overutilize 911/Emergency Rooms and educates and connects them to resources. This has routinely decreased their "usage" of unnecessary emergency medical services by 50%.

The full-time position will serve as a civilian project manager for the DOTS program and will be entitled Community Risk Reduction Coordinator. This position will be a classified position within the City and subject to all Civil Service rules with respect to hiring.

FINANCIAL IMPLICATIONS:

Project No. PS2214 has been established, with the passage of a previous ordinance accepting funds in the amount of \$71,184.48 for the purposes of funding the salary and benefits of the full-time coordinator position for nine months and continued support of the part-time telehealth position in 2023. The funding will be provided by Pueblo Triple Aim Corporation through September of 2023 with the remaining three months of the position covered by the General Fund at a cost of \$17,796.21. The intent is to reapply for funding each year for continued financial support.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The suggested change establishes the 2022 salary range for the classification of Community Risk Reduction Coordinator. If this ordinance is not approved, and assuming the Community Risk Reduction Coordinator position is approved, no salary range will be associated with the classification and the position cannot be filled.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10338

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR COMMUNITY RISK REDUCTION COORDINATOR

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Section 6-5-16 (A) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2022 pay scale for the classification of Community Risk Reduction Coordinator is established and enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

A. The 2022 monthly pay range for the classification of Community Risk Reduction Coordinator:

<i>CLASS TITLE</i>	<i>Entrance</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	<i>Step 5</i>	<i>Step 6</i>	<i>Step 7</i>	<i>Step 8</i>	<i>Step 9</i>	<i>Step 10</i>
(A) GENERAL SERVICE										
Community Risk Reduction Coordinator	3771.63	3868.74	4060.30	4254.88	4350.38	4397.28	4459.91	4517.64	4580.07	4730.76

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the transactions described therein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

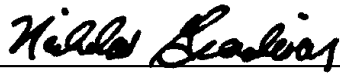
Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:



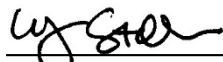
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION ENTITLED DIRECTOR/JUST TRANSITIONS PROGRAM TO THE AUTHORIZED STAFFING OF THE MAYOR'S OFFICE

SUMMARY:

The Mayor requests that one (1) full-time position be added to the Mayor's Office for the purpose of leading the transitional work associated with the upcoming closure of Xcel Energy Comanche 3. The senior-level director position will be entirely funded through the Colorado State Office of Just Transitions with funding anticipated for three years from the time the position is hired.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No. 10085 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2022.

BACKGROUND:

In anticipation of the significant and transformational economic challenges incident to the upcoming closure of Xcel Energy's Comanche 3 plant, Mayor Gradisar established a Pueblo Just Transitions Steering Committee which was formed to assist with this change in the Pueblo community. The position of Director/Just Transitions Program will be charged to work independently at a high level in the execution of the objectives defined by the steering committee, and the duties outlined in the Colorado Just Transitions Action Plan and authorized in C.R.S. 8-83-501 through 8-83-505. The position will be an unclassified, exempt, appointed director level position.

An experienced professional possessing the skills necessary to provide key strategic planning, development, and execution of meaningful, tangible plans in diversifying and/or attracting new businesses to supplant the Comanche 3 physical plant will be required. The position will perform extensive financial forecasting, tracking, and reporting of projects to include revenue and expenditure projections associated with the

program. A key objective will be to increase access to and maximize private capital from local, state, and national investors and conduct research and financial analysis for business sectors and specific groups impacted by the Comanche 3 closure. Coordinating infrastructure investments to sustain local transition strategies and ensuring alignment with state and federal programs will be essential functions of the position. The Director/ Just Transitions Program will also work with impacted workers and their families to secure new employment with family-sustaining income and to prepare for job skills development.

The position will serve as a primary liaison with the Colorado State Office of Just Transitions, Community and Economic Development Officer, Pueblo Economic Development Corporation (PEDCO), Xcel Energy Administration and other energy companies and entities as appropriate. Leading collaborative efforts with community and neighborhood groups, boards and committees on a city-wide scale will be an important component of the position, with an emphasis on community engagement, diversity, inclusion, and equity.

FINANCIAL IMPLICATIONS:

All costs associated with this proposal will be paid out of funding received through the Colorado State Office of Just Transitions fund. The funding is anticipated to last approximately three (3) years from the date of hire with a total of \$465,432.36 allocated to cover the position as well as any associated operating costs. The proposed salary range for the position is \$77,146.68-\$93,672 per year plus benefit costs.

Cost Item	Approximate Annual Cost
Salary	\$ 82,000
Retirement (PERA)	\$ 11,644
Health Insurance	\$ 21,637
Dental Insurance	\$ 296
Life Insurance	\$ 76
Medicare	\$ 1,189
Estimated Annual Position Cost	\$ 116,842

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

If City Council does not approve the ordinance to establish the position, the City of Pueblo will not be able to adequately support the important work of the Pueblo Just

Transitions Steering Committee which will be critical to navigate and proactively address the impacts the Xcel Comanche 3 closure will have on the Pueblo community.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10339

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION ENTITLED DIRECTOR/JUST TRANSITIONS PROGRAM TO THE AUTHORIZED STAFFING OF THE MAYOR'S OFFICE

WHEREAS, it is necessary to revise the FY 2022 staffing in the Mayor's Office for the ultimate efficiency and functionality of the Just Transitions Program; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following section captioned "Mayor's Office" of Ordinance No. 10085, of the 2022 Staffing Ordinance, is amended as follows:

Mayor's Office

Mayor	1
Chief of Staff	1
Deputy Mayor	1
<u>Director/Just Transitions Program</u>	<u>1</u>
Director/Public Affairs	1
Grant & Resource Development Administrator	1
Secretary to the Mayor	1
Administrative Assistant	1
Food Project Coordinator	1
Total	[8] <u>9</u>

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the transactions described therein.

SECTION 3.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the Mayor's Office and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

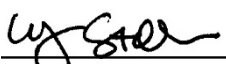
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR DIRECTOR/JUST TRANSITIONS PROGRAM

SUMMARY:

Attached for consideration is an amended Pay Plan Ordinance that reflects the addition of the pay rate and salary schedule for the classification of Director/Just Transitions Program.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No.10092 was approved by City Council. This Ordinance provided the classification and pay plan for fiscal year 2022.

BACKGROUND:

In anticipation of the closure of the Xcel Energy Comanche 3 plant, the Colorado State of Just Transitions has created an action plan which includes the Mayor's establishment of the Pueblo Just Transitions Steering Committee and has authorized and dedicated funding to hire a full-time, senior management level position to support these efforts per C.R.S 8-83-501 through 8-83-505. The position of Director/Just Transitions Program will be an exempt, unclassified director level position with the City of Pueblo. Funding for the position is anticipated to last for approximately three years and will be fully paid by the Colorado State Office of Just Transitions. At the conclusion of the funding, it is anticipated that the position will be abolished.

The Director/Just Transitions Program will lead the Pueblo Just Transitions Steering Committee providing strategic planning, complex financial forecasting, tracking, and reporting to include revenue and expenditure projections, crucial community outreach to affected groups to include displaced workers and working on securing new employment with family-sustaining income. Critical duties of the Director will include securing and maximizing private capital from local, state, and federal investors and coordinating with

key stakeholders at the State of Colorado, within the Xcel Energy administration and local economic development groups to align strategies towards navigating the substantial economic challenges that the plant closure will bring to the community. Leading collaborative efforts with community and neighborhood groups, boards and committees on a city-wide scale will be an important component of the position, with an emphasis on community engagement, diversity, inclusion, and equity.

FINANCIAL IMPLICATIONS:

All costs associated with this proposal will be paid out of funding received through the Colorado State Office of Just Transitions fund, with an estimated annual cost of \$116,842 associated with the new position:

Cost Item	Approximate Annual Cost
Salary	\$ 82,000
Retirement (PERA)	\$ 11,644
Health Insurance	\$ 21,637
Dental Insurance	\$ 296
Life Insurance	\$ 76
Medicare	\$ 1,189
Estimated Annual Position Cost	\$ 116,842

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not approving the pay scale for the position of Director/Just Transitions Program would not allow the City to hire for this critical role to support the action plan approved by the State Office of Just Transitions to support the Pueblo community with the anticipated closure of the Xcel Energy Comanche 3 plant.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10340

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR DIRECTOR/JUST TRANSITIONS PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Section 6-5-16 (A) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2022 pay scale for the classification of Director/Just Transitions Program is established and enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

1. The 2022 monthly pay range for the appointed classification of Director/Just Transitions Program

<i>CLASS TITLE</i>	<i>MONTHLY BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>
(C) APPOINTED		
<u>Director/Just Transitions Program</u>	<u>6428.92</u>	<u>7806.54</u>

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the transactions described therein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

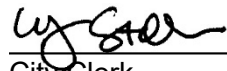
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Sam Ingo, Director of Fleet Maintenance
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING A POSITION FOR TRAINING PURPOSES WITHIN THE FLEET MAINTENANCE DIVISION

SUMMARY:

The Fleet Maintenance Division, with Mayor Gradisar's approval, requests to temporarily increase the staffing level of the department by one (1) full time equivalent (FTE) for training purposes. The classification shall be Fleet Superintendent and the additional FTE shall be abolished upon the anticipated retirement of the current incumbent in the position in February 2023.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No.10085 was approved by City Council. This Ordinance provided the authorized staffing for Fiscal Year 2022.

BACKGROUND:

The Fleet Superintendent has announced plans to retire at the end of February 2023. There is no mechanism in ordinance to allow for temporary overfilling of a position in order to facilitate critical training and transition activities. Therefore, the department requests the addition of a Fleet Superintendent FTE on a temporary basis to accomplish the necessary training. It is anticipated that the position requested by this ordinance will be posted as soon as possible and subsequently filled in January 2023. This will allow training over the course of two months prior to the current incumbent's departure.

It is further requested that the additional FTE be abolished upon separation of the current Fleet Superintendent via retirement.

FINANCIAL IMPLICATIONS:

Funding for the wages and benefits for the position will come from the General Fund. The cost for the two months of the additional position is approximately \$21,170 and can be absorbed by Fleet Maintenance budget over the course of 2023, pending City Council approval.

Cost Item	Approximate Cost (2 months)
Salary	\$ 15,027
Retirement (PERA)	\$ 2,134
Health Insurance	\$ 3,730
Dental Insurance	\$ 49
Life Insurance	\$ 12
Medicare	\$ 218
Estimated Position Cost for 2 months	\$ 21,170

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The alternative would be to retain the current staffing level, which would eliminate any opportunity to train a newly hired Fleet Superintendent.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10341

AN ORDINANCE AMENDING THE FISCAL YEAR 2022
STAFFING ORDINANCE BY ADDING A POSITION FOR
TRAINING PURPOSES WITHIN THE FLEET MAINTENANCE
DIVISION

WHEREAS, it is necessary to temporarily add an additional Fleet Maintenance Superintendent position in the Fleet Maintenance Division for training purposes to meet maximum efficiency and functionality of the Division; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following section captioned "Fleet Maintenance" of the 2022 Staffing Ordinance No. 10085 is amended as follows:

Fleet Maintenance

Fleet Superintendent	[1] 2
Shops Supervisor	1
Auto Mechanic	6
Parts Clerk	2
Senior Office Assistant	1
Total	[11] 12

SECTION 2.

Effective March 15, 2023, the position established pursuant to Section 1 above shall be abolished and the 2023 Staffing Ordinance shall be amended as follows:

Fleet Maintenance

Fleet Superintendent	[2] 1
Shops Supervisor	1
Auto Mechanic	6
Parts Clerk	2
Senior Office Assistant	1
Total	[12] 11

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the transactions described therein.

SECTION 4.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the department of Fleet Maintenance and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING A POSITION FOR TRAINING PURPOSES WITHIN THE DEPARTMENT OF THE CITY CLERK

SUMMARY:

The City Clerk, with Mayor Gradisar's approval, requests to temporarily increase the staffing level of the department by one (1) full time equivalent (FTE) for training purposes. The classification shall be Municipal Records and Technical Coordinator and the additional FTE shall be abolished upon the anticipated retirement of the current incumbent in the position in April 2023.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No.10085 was approved by City Council. This Ordinance provided the authorized staffing for Fiscal Year 2022.

BACKGROUND:

The Municipal Records and Technical Coordinator has announced plans to retire at the end of April 2023. There is no mechanism in ordinance to allow for temporary overfilling of a position in order to facilitate critical training and transition activities. Therefore, the City Clerk requests the addition of a Municipal Records and Technical Coordinator FTE on a temporary basis to accomplish necessary training. It is anticipated that the position requested by this ordinance will be posted and subsequently filled in December 2022 with a hire date in January of 2023. This will allow training over the course of several months prior to the current incumbent's departure.

It is further requested that the additional FTE be abolished upon separation of the current Municipal Records and Technical Coordinator via retirement.

FINANCIAL IMPLICATIONS:

Funding for the wages and benefits for the position will come from the General Fund. The cost for the four months of the additional position is approximately \$26,741 and can be absorbed by the City Clerk's anticipated budget allocation for 2023.

Cost Item	Approximate Cost (4 months)
Salary	\$ 18,204
Retirement (PERA)	\$ 2,585
Health Insurance	\$ 5,595
Dental Insurance	\$ 74
Life Insurance	\$ 19
Medicare	\$ 264
Estimated Position Cost for 4 months	\$ 26,741

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The alternative would be to retain the current staffing level, which would eliminate any opportunity to train a newly hired Municipal Records and Technical Coordinator.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10342

AN ORDINANCE AMENDING THE FISCAL YEAR 2022
STAFFING ORDINANCE BY ADDING A POSITION FOR
TRAINING PURPOSES WITHIN THE DEPARTMENT OF THE
CITY CLERK

WHEREAS, it is necessary to temporarily add an additional position of Municipal Records and Technical Coordinator to the City Clerk's Department in order to reach ultimate efficiency and functionality for the department; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following section captioned "City Clerk" "of Ordinance No. 10085, being the 2022 Staffing Ordinance, is amended as follows:

The following positions shall be authorized for FY 2022:

<u>City Clerk</u>	
City Clerk	1
Deputy City Clerk	1
Licensing Coordinator	2
Municipal Records & Technical Coordinator	[1] <u>2</u>
Senior Office Assistant	1
Total	[6] <u>7</u>

SECTION 2.

Effective May 1, 2023, the position established pursuant to Section 1 above shall be abolished and the 2023 Staffing Ordinance shall be amended as follows:

<u>City Clerk</u>	
City Clerk	1
Deputy City Clerk	1
Licensing Coordinator	2
Municipal Records & Technical Coordinator	1
Senior Office Assistant	1
Total	6

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the transactions described therein.

SECTION 4.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the department of the City Clerk and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Civil Service Commission
Manuel Alcala, Civil Service Administrator
Robert Jagger, Deputy City Attorney

SUBJECT: AN ORDINANCE AMENDING SECTION 2-1-1 OF TITLE II OF CHAPTER 1 OF THE PUEBLO MUNICIPAL CODE RELATING TO THE MONTHLY COMPENSATION OF ELECTED MEMBERS OF THE CIVIL SERVICE COMMISSION

SUMMARY:

Attached is a proposed Ordinance increasing the monthly compensation of the elected members of the Civil Service Commission from \$225 to \$450.

PREVIOUS COUNCIL ACTION:

The monthly compensation of the elected members of the Civil Service Commission was last adjusted pursuant to Ordinance No. 6314, passed on May 11, 1998 and made effective January 1, 1999.

BACKGROUND:

The proposed Ordinance increases the monthly compensation of the elected members of the Civil Service Commission from \$225 to \$450 effective January 1, 2023. Such increase will cost \$8,100. The reason and basis for such request include the following:

(a) The monthly compensation of \$225.00 was set in 1999 and has not been charged over the last 23 years.

(b) To better serve the City and specifically to reduce the period of time associated with certification of eligible lists, the Civil Service Commission has changed its regular meetings from monthly to bimonthly.

(c) Reasonable monthly compensation is a relevant consideration in attracting and retaining qualified candidates for the office of Civil Service Commissioner.

FINANCIAL IMPLICATIONS:

The increase in the monthly compensation proposed by this ordinance will cost \$8,100.

BOARD/COMMISSION RECOMMENDATION:

The Civil Service Commission is in favor of the proposed Ordinance for the reasons above set forth.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could elect not to pass the Ordinance and the monthly compensation would remain unchanged.

RECOMMENDATION:

The Civil Service Commission recommends passage and approval of the proposed Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10343

AN ORDINANCE AMENDING SECTION 2-1-1 OF TITLE II OF
CHAPTER 1 OF THE PUEBLO MUNICIPAL CODE RELATING
TO THE MONTHLY COMPENSATION OF ELECTED MEMBERS
OF THE CIVIL SERVICE COMMISSION

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Section 2-1-1 of the Pueblo Municipal Code, is amended to read as follows:

Sec. 2-1-1. Compensation of elective boards and commissions.

(a) Effective January 1, 1999, each member of the following boards and commissions shall receive the monthly compensation set forth after the name of such board or commission:

Civil Service Commission **\$450.00**
Board of Waterworks 225.00

(b) The Chairman of each such board and commission shall receive as additional compensation the sum of twenty-five dollars (\$25.00) per month for each month of service as Chairman.

(c) The compensation of the Board of Waterworks shall be paid from revenues realized from the operation of the water system of the City.

SECTION 2.

The officers of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 3.

This Ordinance shall become effective January 1, 2023.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:

Hilda Leal
Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Lydia
City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 3 RELATING TO WORK SCHEDULES FOR FIREFIGHTERS ASSIGNED TO WORK FOCUS RESPONSE VEHICLES

SUMMARY:

This amendment will change the work schedule of personnel assigned as Focused Response Unit (FRU) personnel from a Group A employee to a Group B employee. There is no financial impact to the city.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Pueblo Fire Department utilizes Focused Response Units throughout the city to reduce the impact of call volume on Advanced Life Support (ALS) Units. Group A employees generally work a five day a week, 8 hour a day work schedule while Group B employees work 24 hour shifts. Changing to a Group B schedule will allow for appropriate responses with appropriately staffed vehicles and improve city resiliency. In addition, the Fire Department will realize more flexibility in its overall emergency response force.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

The no action alternative would be to retain current assignment schedule.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. FRU Amendment to group B

ORDINANCE NO. 10344

AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 3 RELATING TO WORK SCHEDULES FOR FIREFIGHTERS ASSIGNED TO WORK FOCUS RESPONSE VEHICLES

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Amendment to the current and successor Collective Bargaining Agreement between the City of Pueblo and the International Association of Fire Fighters Local 3, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and enacted as an Ordinance.

SECTION 2.

The Mayor is authorized to execute and deliver the Amendment in the name of the City and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:



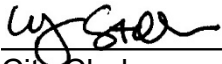
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

AMENDMENT TO COLLECTIVE BARGAINING AGREEMENT

This Amendment to Collective Bargaining Agreement ("Amendment") is entered into this 13 day of October, 2022, by and between the International Association of Fire Fighters Local 3 ("Union") and Pueblo, a municipal corporation ("City").

WHEREAS, City and Union are parties to a collective bargaining agreement effective January 1, 2022 through December 31, 2023 ("Labor Agreement");

WHEREAS, the City and the Union desire to amend the Labor Agreement for the purposes of changing the work schedule for Fire Fighters assigned to work Focus Response Vehicles from a Group A work schedule to a Group B work schedule.

NOW THEREFOR, in consideration of the foregoing and the agreements to be performed as herein set forth, the parties agree as follows:

1. Section 4 of Article 10 of the Labor Agreement is amended to read as follows:

Fire Fighters assigned to Focus Response Unit (FRU) shall be a Group B Fire Fighter.

2. Section 3 of Article 23 of the Successor Labor Agreements is amended to read as follows:

The Fire Chief may implement a flex time program for Group A Fire Fighters if he or she desires. The Chief retains the right to return Group A Fire Fighters to normal schedule at any time. Flex time schedules shall not be limited to flex time hours between Monday and Friday or be limited to the flex time hours between the hours of 7:00 a.m. and 5:00 p.m. or 7 a.m. and 7 p.m.

3. Each person signing this Amendment on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute and deliver this Amendment on behalf of such party and that this Amendment is a valid and legally binding obligation of such party enforceable against it.

Executed in Pueblo, Colorado as of the date first above written.

CITY OF PUEBLO

By: _____
Mayor

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS LOCAL NO. 3

By: _____
President

ATTEST:

City Clerk

ATTEST:



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A GRANT AWARD TO THE CITY OF PUEBLO AND PUEBLO POLICE DEPARTMENT FROM THE PATRICK LEAHY BULLETPROOF VEST PARTNERSHIP ADMINISTERED BY THE U.S. DEPARTMENT OF JUSTICE, ACCEPTING \$5,537.87 FOR YEAR 2022, ESTABLISHING PROJECT NUMBER PS2212, AND BUDGETING AND APPROPRIATING FUNDS NOT TO EXCEED \$5,537.87 TO PROJECT NUMBER PS2212

SUMMARY:

The U.S. Department of Justice ("DOJ") has informed the Pueblo Police Department ("PPD") that funds are available under the Patrick Leahy Bulletproof Vest Partnership ("BVP") to assist PPD with purchasing bulletproof vests for its police officers.

PREVIOUS COUNCIL ACTION:

Previous grants of this nature have routinely been approved when offered.

BACKGROUND:

Body armor has a recommended life span of five years. PPD provides its officers with body armor, which requires continuous replacement on a five-year (5) rotation. The body armor currently being used by PPD officers will expire soon and needs to be replaced. PPD will need to replace approximately 34 vests in the last few months of 2022. The new body armor will provide all authorized sworn positions with body armor that complies with the most current National Institute of Justice (NIJ) 0101.06 standard.

An application for funding assistance was submitted to the BVP in May 2022. In response, the BVP awarded the City of Pueblo \$5,537.87 for 2022. These funds may only be used for the purchase of bulletproof vests.

FINANCIAL IMPLICATIONS:

This ordinance creates project number PS2212. The department has been awarded a total of \$5,537.87 from the BVP Program, sponsored by the DOJ. The City is required to match at least fifty percent (50%) of the cost of qualifying vests. The cost of the new vests will be approximately \$27,200.00; therefore, additional funds from the Police Department's operating budget in the amount of approximately \$21,662.13 are required to complete the purchase of the vests. This Ordinance will allow the department to utilize the grant funding to acquire the needed vests while reducing the overall cost to the Department. The remaining cost will come out of the regular PPD budget.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

There is no stakeholder process required for award.

ALTERNATIVES:

Decline the BVP award and increase the cost of purchasing needed police equipment by requiring more funds from PPD's budget.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2022 BVP Application Details and Award
2. 2022 BVP Submitted Application

ORDINANCE NO. 10345

AN ORDINANCE APPROVING AND ACCEPTING A GRANT AWARD TO THE CITY OF PUEBLO AND PUEBLO POLICE DEPARTMENT FROM THE PATRICK LEAHY BULLETPROOF VEST PARTNERSHIP ADMINISTERED BY THE U.S. DEPARTMENT OF JUSTICE, ACCEPTING \$5,537.87 FOR YEAR 2022, ESTABLISHING PROJECT NUMBER PS2212, AND BUDGETING AND APPROPRIATING FUNDS NOT TO EXCEED \$5,537.87 TO PROJECT NUMBER PS2212

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept funding from the U.S. Department of Justice ("DOJ") for public and municipal purposes; and

WHEREAS, the DOJ in accordance with the Patrick Leahy Bulletproof Vest Partnership ("BVP") has tendered an award in a total amount of \$5,537.87 for the 2022, upon conditions recited therein or incorporated therein by reference; and

WHEREAS, acceptance of the funding for the purposes for which it has been made is in the best interest of the City and will benefit the health, welfare, and safety of the citizens of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project Number PS2212 is hereby established.

SECTION 2.

The grant award from the Patrick Leahy Bulletproof Vest Partnership ("BVP"), administered by the U.S. Department of Justice, to the Pueblo Police Department, totaling \$5,537.87, is hereby approved and accepted in accordance with its terms and conditions.

SECTION 3.

All funds accepted under this ordinance shall be budgeted and appropriated into Project Number PS2212. A transfer of funds from the Police Department's operating budget to Project Number PS2212 in an amount not to exceed \$21,662.13 is also approved. Said funds shall only be expended and used for this Project.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

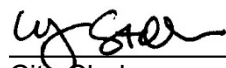
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

APPLICATION DETAILS

APPLICATION PROFILE

Participant	PUEBLO CITY
Fiscal Year	2022
Number of Agencies Applied	0
Total Number of Officers for Application	231
Number of Officers on Approved Applications	231

APPLICATION PROFILE

Fiscal Year	2022
Vest Replacement Cycle 	5
Number of Officers	231
Number of Emergency Replacement Needs 	Number of Stolen or Damaged Number of Officer Turnover
	0 0

APPLICATION DETAILS

NIJ#	Quantity	Unit Price	Extended Cost	Tax Shipping and Handling	Total Cost
BAV-II	34	\$800.00	\$27,200.00	\$0.00	\$27,200.00
Grand Totals	34		\$27,200.00	\$0.00	\$27,200.00

AWARD SUMMARY FOR FY2022 REGULAR FUND

Funds Type	Eligible Amount	Award	Date Approved	Status
Regular Fund	\$27,200.00	\$5,537.87	09/21/22	Approved by BVP
Grand Totals:	\$27,200.00	\$5,537.87		

RETURN

Joe Garcia

From: vests@usdoj.gov
Sent: Friday, April 29, 2022 3:59 PM
To: Joe Garcia
Subject: [External] Your Application has been forwarded to BVP for approval

External email. Please use caution.

Thank you for submitting an online Patrick Leahy Bulletproof Vest Partnership (BVP) application. Your application will be safeguarded until the current application period closes on June 27, 2022.

Funding Decisions and Notification: When this application period closes, the following will occur: Each application is checked against the availability of funds to cover a portion of its total cost, in keeping with established rules and statutory set-asides. Once funding decisions are made, Congress is notified, followed by an electronic (email) message to the primary jurisdiction contact regarding the specific level of funding available. After this notification, DOJ requires additional time to create or update each jurisdiction's financial account. You will then be notified again (via email) that funds are available for drawdown through the payment request process in your online handbook. Assuming there are no changes or significant delays in the above processes, online payment requests for the 2022 applications should be available no later than September 30, 2022.

Formula and Matching Requirements: The program requires that each applicant jurisdiction be responsible for providing at least 50 percent of the cost of each qualifying vest purchased. Tribal governments may use other federally-appropriated funds to provide their portion of the total cost; all other jurisdictions must use non-federal funds. Non-federal fund sources include state and/or local jurisdiction revenues, private or personal funds, and contributions from insurance or workman's compensation consortiums. Asset forfeiture funds may also be used to meet the jurisdiction's financial requirement. By submitting this application, you have already certified that you understand and will abide by the following: "Funding availability, levels, and percentages are uncertain. There is no guaranteed funding level associated with any application submitted to the BVP program. Jurisdictions agree to meet their financial and contractual obligations associated with any purchase transactions, regardless of the level of funding received through this application."

Purchasing NIJ-approved Vests: BVP program funds may only be used to help defray the costs of NIJ-approved vest makes and models. Any ballistic or stab vest meeting applicable NIJ standards is eligible for funding. Vests contained in your application provide a basis for funding decisions. However, you are not obligated to purchase those exact vest makes and models. You may use BVP funds to help defray the costs of any NIJ-approved vest. Simply reflect any changes in the online receipt report(s), when you initiate the online payment process. BVP funds remain in your "account" through the end of the second federal fiscal year following the year of this application. Therefore, you have ample time to make and complete eligible purchases.

Need Assistance? Please call the BVP technical support helpdesk at 877-758-3787 (toll free). Thank you and continued success in providing lifesaving body armor for your eligible officers and employees.

BVP Technical Support Team

SUBMIT APPLICATION



Application Profile



Application



NIJ Approved Vests



Submit Application

You have successfully submitted your application for funding for BVP approval.

The approval process may take several weeks from the application closing date. A confirmation email has been sent to jgarcia@pueblo.us. An email approval advisory will also be sent to jgarcia@pueblo.us when the program approvals are completed. Additionally, you may check the status of your application by selecting option , 'Application History', in the Jurisdiction's Handbook. Thank you for your continued patience.

For your reference, the summary data for your Application for Funding is listed below.

SUCCESSFUL SUBMISSION

Jurisdiction: PUEBLO CITY

Application Id: 22029864

Status/Submission Date: Sent for BVP Approval : 04/29/22

APPLICATION FOR FUNDING

Quantity	Extended Cost	Tax, S&H	Total Cost
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Quantity	Extended Cost	Tax, S&H	Total Cost
34	\$27,200.00	\$0.00	\$27,200.00
Maximum Allowable Funding from BVP:			\$13,600.00

* Important: You can click on the 'Print Screen' button below to keep a copy for your records.

PRINT SCREEN



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO COUNTY SHERIFF'S OFFICE, REGARDING THE USE OF A FARO 3D CSI CAMERA SYSTEM, AND RATIFYING THE MAYOR'S SIGNATURE THEREOF

SUMMARY:

Attached is an Ordinance approving and authorizing a Memorandum of Understanding ("MOU") with the Pueblo County Sheriff's Office for the use of a 3D FARO scanner.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Per the MOU, a 3D FARO scanner will be borrowed as needed from the Pueblo County Sheriff's Office. This camera system can quickly capture and digitize every detail of a crime scene, including the structural and positional details of a scene, for thorough investigation, reconstruction, and legal prosecution, providing the "CSI effect" that today's juries expect.

Pursuant to a related Colorado Justice Assistance Grant, immediate signature of the MOU was needed so that the Pueblo Police Department could obtain grant funding.

FINANCIAL IMPLICATIONS:

The City will not need to pay for use of the 3D FARO scanner, although it may be liable for damage to the machine caused by any City negligence.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, City law enforcement will be forced to use the camera technology only when the Pueblo County Sheriff's office has staff available to operate the camera. This adds significant time to processing a crime scene.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Signed MOU County and City for FARO

ORDINANCE NO. 10346

AN ORDINANCE APPROVING AND AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO COUNTY SHERIFF'S OFFICE, REGARDING THE USE OF A FARO 3D CSI CAMERA SYSTEM, AND RATIFYING THE MAYOR'S SIGNATURE THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Memorandum of Understanding ("MOU") by and between the City of Pueblo, a Municipal Corporation, and Pueblo County, Colorado through its Sheriff's Office, relating to the use of a FARO 3D CSI camera system, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor's execution of the MOU is hereby ratified on behalf of Pueblo, a Municipal Corporation, and the City Clerk shall affix the Seal of the City thereto and attest the same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached MOU to implement the transactions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

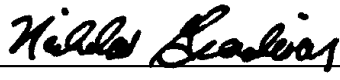
Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:



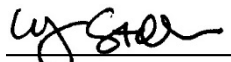
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this ____ day of October 2022, by and between Pueblo County, Colorado through its Sheriff's Office ("PCSO") and the City of Pueblo and its Pueblo Police Department ("PPD").

WITNESSETH:

WHEREAS, the Colorado Department of Public Safety, Division of Criminal Justice distributes funds to local governments to enhance their ability to protect public safety and investigate and prosecute crime; and

WHEREAS, Pueblo County Sheriff's Office was awarded 2019 JAG funding to purchase a 3D FARO Scanner; and

WHEREAS, PCSO agrees to allow PPD the use of PCSO's 3D FARO Scanner for crime scene investigation; and

WHEREAS, the Parties desire to enter into an Agreement to set forth their respective duties and responsibilities regarding the lending and usage of the 3D FARO Scanner in furtherance of public safety in Pueblo County.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises contained herein, the parties agree as follows:

I. PROPERTY:

County hereby allows PPD the use of the following described property: (One) 3D FARO Scanner ("Scanner"). Title to the property shall remain with PCSO, and the property shall be stored in the custody of PCSO at all times, unless checked out by PPD as further described below.

II. OBLIGATIONS OF PPD:

- A. Only trained personnel, as approved by the PCSO, shall use the Scanner when it is in PPD's possession.
- B. PPD shall request the use of the Scanner from the appropriate PCSO representative and shall indicate anticipated duration of its use. Unless otherwise designated by the Sheriff, the PCSO representative shall be Captain Shelley Bryant.
- C. Once approved, PPD shall take possession of the Scanner for the period of time designated in advance by the PPD. If the PPD requires additional time, it shall request an extension from the PCSO representative, who shall permit reasonable extensions when feasible.
- D. PPD shall maintain reasonable security of the Scanner when it is in its possession.
- E. After the approved period of use, PPD shall return the Scanner to PCSO for storage.
- F. PPD shall be liable for any damage to or loss of the Scanner occurring while it is in control of the Scanner, if the damage or loss is caused by a negligent act of the PPD.

PPD shall not be liable for damage to the Scanner caused by third party negligence, intentional tort, or criminal act, nor for damage caused while the Scanner is under the control of PCSO.

III. OBLIGATIONS OF PCSO

- A. PCSO shall make the Scanner available to PPD upon receipt of a request made under Section II.B. above when the Scanner is not otherwise scheduled for use, repair, service or is otherwise unavailable for good cause as determined by the PCSO representative.
- B. PCSO will retain ownership and title of the equipment.
- C. PCSO shall designate an authorized representative to grant requests, approve trained PPD personnel, and to ensure compliance with this MOU.

IV. ROUTINE MAINTANCE:

PCSO shall pay for the routine maintenance of the Scanner. Routine maintenance does not include repairs for specific incidents of damage or costs relating to loss. PCSO makes no guarantee or warranty to PPD as to the functionality or condition of the Scanner and further makes no representation as to the duration of time in which the PSCO will continue to possess Scanner.

V. TERM/TERMINATION:

Unless sooner terminated as provided herein, the term of this MOU shall commence on October 10, 2022 and shall continue on a month-to-month basis until such time as a party decides to terminate this agreement. Either party hereto may terminate this Agreement at any time and for any reason by giving thirty (30) days prior written notice to the other party. Additionally, if PPD fails to perform any of the conditions of this Agreement, PCSO may terminate this Agreement and PPD's right to use of the property hereunder, and immediately repossess the property without prior demand on or notice to PPD.

VI. DISCLAIMER OF WARRANTY:

County has not made and does not make any representation, warranty, or covenant, express or implied, with respect to the condition of the equipment.

VII. INSURANCE:

PPD is a self-insured entity in compliance with Colorado law.

VIII. LIABILITY:

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*, or the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.* as applicable as now or hereafter amended.

IX. NOTICES:

All notices to be given under this Agreement shall be made in writing and shall be sufficient if delivered personally or mailed by First Class, United States mail, postage prepaid to the other party at the following addresses:

City of Pueblo
Pueblo Police Department
Attn: Chief of Police
200 S. Main Street
Pueblo, Colorado 81003

And

Pueblo County Sheriff's Office
Attn: Captain Shelley Bryant
909 Court Street
Pueblo, Colorado 81003

X. RELATIONSHIP:

Nothing in this MOU is intended to, or shall be deemed to constitute, a partnership or joint venture between the parties, or to create any agency or partner relationship between the parties. Neither party shall hold itself out as a partner, joint venture, agent, or representative of the other under this MOU.

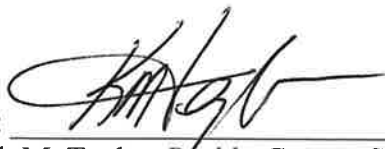
XI. SIGNATURES:

Each person signing this MOU on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this MOU on behalf of such party and that this MOU is a valid and legally binding obligation of such party enforceable against it in accordance with its terms.

This MOU and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding the day and year first written above.

PUEBLO COUNTY, COLORADO

By: 
Kirk M. Taylor, Pueblo County Sheriff

CITY OF PUEBLO

By:  Barb Huber
Deputy Mayor
Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT BETWEEN PUEBLO SCHOOL DISTRICT 60, DBA PUEBLO CITY SCHOOLS, AND THE CITY OF PUEBLO FOR THE SCHOOL RESOURCE OFFICER PROGRAM DURING THE PERIOD OF JANUARY 1 THROUGH DECEMBER 31, 2023, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

The attached Agreement details the obligations and responsibilities of each entity (City of Pueblo and Pueblo City Schools) in regard to the School Resource Officer (SRO) Program for January 1, 2023 through December 31, 2023. It includes a compensation schedule, by Pueblo City Schools (PCS), to the City of Pueblo, that represents a 2.85% increase in revenue over the 2022 schedule. The increase is the result of a 7% pay raise that all officers will receive in 2023 and the corresponding benefit cost increases. Moreover, some SRO officers also received a salary step increase.

PREVIOUS COUNCIL ACTION:

On December 30, 2021, City Council approved Ordinance Number 10087 that provided for a similar agreement for the calendar year of 2022.

BACKGROUND:

This Ordinance approves an agreement between Pueblo School District 60, dba Pueblo City Schools, and the City of Pueblo regarding the School Resource Officer Program. This agreement is an extension of services that have been provided since 1999. In order to provide law enforcement assistance and safety enhancing services for Pueblo School District 60, dba Pueblo City Schools, and its students, the City shall designate 10 Police Officers to serve as School Resource Officers in the four District 60 high schools, five middle schools, and Paragon Learning Center. With the closure of Heroes Academy in 2020, the School Resource Officer assigned to Heroes Academy was transferred to Paragon Learning Center.

FINANCIAL IMPLICATIONS:

The City will see a 2.85% increase in total payments received from PCS in 2022 (increase of \$20,764.83 over the course of the agreement). The increase is primarily the result of all officers receiving a salary increase for 2023 and the resulting impact on benefit costs. The City will receive \$62,419.27 per month for the months of January through December of 2023. This compares to \$60,688.87 per month received in 2022. Total receipts in 2023 will be \$749,031.24 compared to \$728,266.39 received in 2022.

BOARD/COMMISSION RECOMMENDATION:

This Agreement has been approved by the Pueblo City Schools Board of Education. The Agreement was approved when it went before that Board at their meeting on October 25, 2022.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

This agreement is an extension of services that have been provided since 1999. Without this Agreement, there will be no School Resource Officers in the ten identified schools, or any of the Pueblo City Schools. The City of Pueblo would also be giving up \$749,031.24 in revenue absent this Agreement.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2023 SRO Agreement with D60
2. Attachment No. 1 - 2023 SRO After School Activities

ORDINANCE NO. 10347

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN PUEBLO SCHOOL DISTRICT 60, DBA PUEBLO CITY SCHOOLS, AND THE CITY OF PUEBLO FOR THE SCHOOL RESOURCE OFFICER PROGRAM DURING THE PERIOD OF JANUARY 1 THROUGH DECEMBER 31, 2023, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to approve and enter into Agreements; and

WHEREAS, approval of the Agreement for the purposes for which it has been made is in the best interest of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Agreement dated January 1, 2023 between Pueblo School District 60 and the City of Pueblo pertaining to the School Resource Officer Program during the period of January 1 through December 31, 2023, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor of the City is authorized to execute the Agreement in the name of the City, and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Agreement to implement the policies and procedures described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:

Hilda Leal
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Lygia
City Clerk

SCHOOL RESOURCE OFFICER AGREEMENT

THIS AGREEMENT is made and entered into effective as of January 1, 2023, by and between the Board of Education, Pueblo School District No. 60, Pueblo, Colorado dba Pueblo City Schools (hereinafter referred to as the “District”), 315 West 11th Street, Pueblo, Colorado, and the City of Pueblo, a Municipal Corporation, for and on behalf of its Police Department (hereinafter referred to as the “City”), 200 South Main, Pueblo, Colorado.

WHEREAS, City and District have for several years undertaken a cooperative and cost-shared program known as the School Resource Officer Program (hereinafter referred to as the “Program”), involving the placement of a City Police Officer in each of District’s high schools (grades 9 through 12) and District’s middle schools (grades 6 through 8) in order to enhance safety and reduce crime within the schools to provide other law enforcement assistance to students and their families, and to enable students to internalize and accept a positive presence as a societal norm; and

WHEREAS, City and District mutually desire to extend the Program, at the schools identified in this Agreement or subsequently agreed upon, through calendar year 2023, subject to annual appropriation; and

WHEREAS, the District has authority to enter an agreement with respect to the Program pursuant to law, including but not limited to §22-32-122 and §29-1-203, C.R.S.; and

WHEREAS, it is necessary and appropriate for the City and District to enter into a written agreement setting forth their respective obligations and other terms and conditions for the Program, including the agreement of the parties with respect to cost-sharing for the program.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises contained herein, City and District agree as follows:

I. OBLIGATIONS OF CITY.

A. City shall designate certain City Police Officers, and a Police Sergeant, in the Pueblo Police Department (“Police Officers”) associated with the Program to utilize space to be provided by District at each of the following District schools, unless otherwise agreed: South High School, East High School, Centennial High School, Central High School, Pueblo Academy of Arts, Roncalli STEM Academy, Risley International Academy of Innovation, Heaton Middle School, Corwin International Magnet School, Paragon Learning Center (hereinafter collectively referred to as “Assigned Schools”). The City will designate a total of ten Police Officers and one Police Sergeant in order to provide law enforcement assistance and safety enhancing services for the District and its students. The designated Police Officers may also develop and conduct additional programs, which serve the purposes of the Program; provided that the nature of such additional programs shall be approved in advance by the District. The District is familiar with the services and activities currently being conducted under the Program at the Assigned Schools and agrees that these services and activities may be undertaken at the Assigned Schools. The designated Police Officers will, at all times during the effective term of this Agreement, remain employees of City. City will be responsible for providing such individual(s) with payment of wages, health care benefits, and Workers’ Compensation Insurance (including occupational disease) in accordance with applicable workers’ compensation laws, FICA, and other requirements of law. Such Police Officers shall report to the City’s assigned Program supervisor in the performance of services

under this Agreement. City may, from time to time, reassign its employees and designate one or more replacement school resource Police Officers at any time.

B. The City shall also respond to and handle non-emergency calls at other schools of the District where there is not an assigned Police Officer and, to the extent reasonably possible, will dispatch a Police Officer from an Assigned School to do so. In order to facilitate notifying the City's Program Supervisor or his or her backup of a need for response to a school, the City will provide the District with a "contact or phone tree." The Police Sergeant will also provide support for the District's elementary schools to the extent that his/her services are not required at other Assigned Schools.

C. It is commonly recognized that Police Officers are required to maintain their efficiency and expertise through ongoing in-service and periodic specialized training courses. These training courses occasionally necessitate the officer being away from his or her Assigned School(s) for varied periods of time. In cases where the training is limited to five consecutive (5) days or less, the SRO Supervisor will rotate the existing remaining Police Officers to cover the shortage at the school affected by the training absence. In cases where the training absence is more than five consecutive (5) days, the City will provide a "substitute" Police Officer to cover the absence(s).

D. Similarly, Police Officers may not be available due to sick, injury, military or other types of leave, including scheduled vacation. In cases where the leave or vacation is limited to five consecutive (5) days or less, the Program Supervisor will rotate or temporarily reassign the existing remaining Police Officers associated with the Program to cover the shortage at the Assigned School affected by the absence, so that the Assigned School is not completely left without coverage. In addition, an appropriate credit in the District's ensuing month's payment under Subparagraph II. C. (a) below will be made for any Police Officer who is absent during a month for more than two consecutive (2) days, but less than five consecutive (5) days, and such absence was prearranged so that he/she could engage in activities other than those provided under this Agreement such as training, SWAT commitments, school closures, etc. Such credit will be given to the District at the rate of \$287.28¹ per day. In no event shall a credit be given for more than three (3) days for each period of Police Officer absence. In cases where the absence is more than five consecutive (5) days, the City will provide a "substitute" Police Officer to cover the absence(s).

E. When a substitute Police Officer is required, the City will be cognizant in its selection of the desirability of utilizing Police Officers who have previous experience as a School Resource Officer ("SRO") or are otherwise compatible for school environments. In addition and in order to provide a more consistent atmosphere, the City will, when reasonably possible, utilize the same officers for substitute purposes, rather than providing a different substitute officer every day.

F. After-School Activities: Each school, normally covered by a Police Officer, participates in annually recurring events that generally occur outside the normal school hours (After School Activities). Each School's assigned Police Officer may be asked to attend certain After School Activities. The City authorizes the applicable Police Officers to attend After School Activities set forth in Attachment No. 1.

¹ Daily credit is calculated as follows: \$749,031.22 / 10 (SROs) = \$74,903.12 (avg salary) / 12 (months) = \$6,241.93 / 173.83 (hours per month) = \$35.91 (hourly) x 8 (hours per day) = \$287.28 credit per day.

G. Notwithstanding anything contained herein to the contrary, any liability of the City hereunder shall be subject to the conditions precedent and limits on liability set forth in the Colorado Governmental Immunity Act.

H. The parties understand and agree that City shall, at all times during the term of this Agreement, be deemed an independent contractor and not an employee of the District, and shall be responsible in accordance with law for all withholding taxes, social security, unemployment, workers' compensation, and/or other employment taxes with respect to its employees, and shall indemnify and hold the District harmless from and against any and all claims for the same.

I. All records of police reports and citations associated with the Police Officer duties will be maintained by the Pueblo Police Department and will comply with the school reporting requirements set forth in § 22-32-146, C.R.S.

II. OBLIGATIONS OF THE DISTRICT.

A. The District shall designate an office space at each high school and each middle school mutually agreed upon by City and the Principal, and will provide such space, including light and heat, at no charge to City, for the exclusive use of City's Police Officers. District shall also furnish, at District's expense, for the use of the assigned Police Officers at each school within the office space, the following items: one desk, three chairs, a telephone with at least one outside phone line, and a lockable three-drawer file cabinet which file cabinet shall be for the exclusive use of City's officers.

B. The designated office space shall be available to City's assigned Police Officers at all times when a school is open for educational or extracurricular activities. In addition, the District shall make reasonable effort to accommodate the City's need, in connection with the Program, to use such designated space at other hours when the school may not otherwise be open. Except in emergency circumstances, the District shall provide City at least 72-hour notification if the portion of the building allocated herein to City becomes temporarily unavailable.

C. The District will budget ten thousand dollars (\$10,000.00) ("Training Fund Monies") for potential use by the Police Officers associated with the Program to receive additional training and education during the year 2023. Training Fund Monies are intended to increase the skills of the Police Officers to meet the goals and needs of the Program and will not be used for "Basic School Resource Officer Training." All recognized and accredited school resource officer advanced training and educational opportunities which are directly related to the work performed for the Program shall be eligible. City shall submit proposed courses, programs, materials, or other opportunities to District for approval at least fifteen (15) business days prior to the proposed date of the training. District shall notify of its approval of the training in writing within ten (10) business days of receipt of the proposal, which approval shall not be unreasonably withheld so long as the training is to increase the basic skills of the Police Officer to perform his or her duties in the public school environment. Failure of the District to respond in writing within ten (10) business days shall be deemed unconditioned approval for the training. District shall promptly pay invoices for training directly to the vendor or other provider. Travel expenses, including but not limited to meal stipend, gas mileage, and other ancillary costs shall be eligible for payment or reimbursement subject to the overall budget established by District under this Paragraph II.C. If District fails to promptly pay an invoice directly to a provider within forty-five (45) days after submission by City, City may pay the vendor and present to District an invoice requesting reimbursement, which shall be paid by District within thirty (30) days of the date of City's invoice.

D. (1) District shall promptly pay for District's share of Program costs within fifteen (15) days of the date of the invoice from the City as follows:

(a) For the City's ten (10) Police Officers and one (1) Police Sergeant in Assigned Schools, \$62,419.27 per month for the months of January through December, 2023.

(b) If District defaults in any monthly payment of its share of Program costs, City may terminate this Agreement upon ten (10) days prior written notice.

(2) Both District and City are political subdivisions of the State of Colorado. City's Fiscal Year ends on December 31 of each calendar year, and District's Fiscal Year ends on June 30 of each calendar year. If either party does not appropriate sufficient funds to fulfill its cost sharing obligation under this Agreement for any Fiscal Year, then that party shall promptly notify the other party of such non-appropriation at least thirty (30) days prior to the end of the then expiring fiscal year and this Agreement shall be terminated effective upon expiration of the Fiscal Year (of the party that does not appropriate sufficient funds) in respect of which sufficient funds to make cost sharing payment were last appropriated.

(3) In the event of an early termination of this Agreement under this section II.D. of this Agreement, any obligation of City to furnish Police Officers for the Program at District's schools shall cease.

D. Notwithstanding anything contained herein to the contrary, any liability of each of the parties hereto shall be subject to the conditions precedent and limits on the liability set forth in the Colorado Governmental Immunity Act.

E. The parties understand and agree that the District shall, at all times during the term of this Agreement, be deemed an independent contractor and not an employee of City, and shall be responsible in accordance with law for all withholding taxes, social security, unemployment, workers' compensation, and/or other employment taxes with respect to its employees, and shall indemnify and hold City harmless from and against any and all claims for the same.

III. TERM/TERMINATION.

Unless sooner terminated as provided herein, this Agreement shall commence on January 1, 2023, and terminate on December 31, 2023. By October 15, 2023, City will notify District of its proposed terms for a successor agreement for the following calendar year. District will respond to City within thirty (30) days regarding its acceptance or rejection of City's proposed terms; any additional terms District wishes to revise, delete, or add; and District's proposed contract price. Thereafter, representatives from the City and the District agree to negotiate a successor agreement for the following calendar year within a reasonable time, but no later than December 31, 2023.

IV. THIRD-PARTY RIGHTS NOT CREATED.

This Agreement is not intended and shall not create any duty to any student, teacher, District employee, parent or any other person, firm or entity with regard to the provision of any law enforcement services, security, level of safety, or activities undertaken by City's officers or conditions resulting

therefrom. No student, teacher, District employee, parent or other person, firm or entity shall be granted or have any private right of action, claim or civil liability remedy against the City or the District, or their respective officers, employees or agents, by virtue of this Agreement. Nothing in this Agreement shall be construed to create any liability, or to waive any of the immunities, limitations on liability or other provisions of the Governmental Immunity Act, §24-10-101 *et seq.*, C.R.S., or to waive any immunities or limitations on liability otherwise available to the City, the District, or their officers, employees or agents.

V. OTHER.

A. This Agreement constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No modification of this Agreement, and no waiver of any of the Agreement's provisions or conditions, shall be binding unless made by written document signed by the parties. Any delegation or assignment of this Agreement by either party, without the prior written consent of the other party, shall be void. This Agreement shall be governed by, and construed according to, the laws of the State of Colorado.

B. This Agreement is intended to govern the agreement of the parties only with respect to conduct of the Program in the District's Assigned Schools, and, subject to the provisions of Paragraph I.B., the District's elementary schools.

C. The District certifies that neither it nor any members of its Board of Education, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities undertaken with federal financial assistance pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. The District and the City further agree that each respectively shall avoid all conflicts of interest which are prohibited by applicable federal regulations.

D. The City shall perform periodic reviews of this agreement. The Pueblo Police Department shall be responsible for this review, which shall be performed on periodic basis, as requested by either party, by the School Resource Officer Sergeant, or otherwise as the Chief of Police shall designate, and shall include a representative of District, as designated by the Superintendent of Schools. The periodic review shall include, where appropriate, compliance with the terms and conditions of this agreement; identification of issues or problems and recommendations for improvement; and assessment of quality of services provided.

The parties agree always to be open to discussing any matter which may help maximize the positive effects of the services provided hereunder, or minimize its undesirable impacts. Nothing herein shall preclude a party from requesting the other party to initiate discussions regarding any provision herein, provided that this Agreement shall remain in effect during the period during which the parties are conducting such discussions. It is hereby understood that this clause subjects the parties to this Agreement to a simple obligation to consider in good faith any proposed modification(s) of this Agreement, subject to Article V, Section A. This Agreement shall remain unaltered and in force during any such period of consideration.

E. In the event this Agreement or any material provision hereof shall be declared to be invalid, unenforceable, or in violation of any applicable federal, state or local laws or regulations, the

parties will immediately begin negotiations to modify or amend this Agreement in order that this Agreement shall, as amended, express and contain the understanding and intentions of the parties.

F. The subject heading of the paragraphs of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of its provisions.

G. Except as set forth elsewhere in this paragraph, all notices to be given under this Agreement shall be made in writing, and shall be sufficient if delivered personally, or mailed by First Class United States Mail, postage prepaid, to the other party at the following addresses:

If to the District:	Pueblo School District 60 Attention: Superintendent 315 W. 11 th Street Pueblo, CO 81003 Telephone: (719) 549-7100 charlotte.macaluso@pueblocitieschools.us
With a copy to:	Michael Bayer 315 W.11 th Street Pueblo, CO 81003 Director of School Culture, Wellness and Safety michael.bayer@pueblocitieschools.us
If to the City:	Pueblo Police Department Attention: Chief of Police 200 South Main Street Pueblo, CO 81003 Telephone: (719) 553-2420
With a copy to:	City of Pueblo Department of Law Attn: Police Legal Advisor 1 City Hall Place Pueblo, CO 81003 Telephone: (719) 562-3899

H. The District and the City shall comply with the provisions of applicable state and federal law, including the Family Education and Privacy Act of 1974 and its regulations, in providing access to and maintaining the confidentiality of student education records, personally identifiable information concerning students, and criminal justice agency records concerning students.

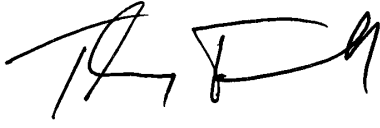
I. With regard to legal issues and contingencies, each signatory to this agreement acknowledges that they, and the other signatory, are subject to, and controlled by the provisions of the Colorado Governmental Immunity Act, Section 24-10-10 *et seq.*, C.R.S.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the parties have entered into this Agreement the day and year first written above.

BOARD OF EDUCATION, PUEBLO SCHOOL
DISTRICT NO. 60,
PUEBLO, COLORADO

CITY OF PUEBLO, a Municipal Corporation

By 

By _____
Mayor Nicholas A. Gradisar

President, Board of Education

Approved as to form:

Attest:



Richard Bump
Caplan and Earnest LLC
Attorneys for Pueblo School District No. 60

City Clerk

Approved as to form:

Lisa Macchietto
Assistant City Attorney

Attachment No. 1

2023 School Resource Officer Program After-School Activities

Each school, normally covered by a Police Officer of the Pueblo Police Department (PPD), participates in annually recurring events that generally occur outside the normal school hours (after school activities). The following activities are authorized for Police Officer participation, and services will be provided by PPD Police Officers, as directed below, by school.

The four (4) high schools generally require the following, however high school principals have the flexibility of scheduling up to a maximum of any five (5) after school activities. Those five (5) scheduled activities must be scheduled with the School Resource Officer Program Sergeant **no later than 30 days prior to the event in which a Police Officer is requested**. Under no circumstances will the PPD provide Police Officer services for more than the five (5) after school activities that are detailed. If the District desires more PPD Police Officer services than those detailed in this attachment, they may obtain those services by paying the extra duty rate for Police Officers, which is currently \$95.77 per hour, per officer.

Centennial High School

1. Bell Bash – event held night before bell game where community, parents, students attend
 - a. 1 officer
 - b. 5 hours maximum
2. Bell Game
 - a. 3 officers
 - b. 5 hours maximum
3. Prom and after Prom
 - a. 1 officer
 - b. 8 hours maximum
4. Homecoming Dance
 - a. 1 officer
 - b. 8 hours maximum
5. Graduation
 - a. 1 officer
 - b. 5 hours maximum

Central High School

1. Bell Bash – event held night before bell game where community, parents, students attend
 - a. 1 officer
 - b. 5 hours maximum
2. Bell Game
 - a. 3 officers
 - a. 5 hours maximum
3. Prom and after Prom
 - a. 1 officer

- b. 8 hours maximum
- 4. Homecoming Dance
 - a. 1 officer
 - b. 8 hours maximum
- 5. Graduation
 - a. 1 officer
 - b. 5 hours maximum

South High School

- 1. Cannon Bash – event held night before bell game where community, parents, students attend
 - a. 1 officer
 - b. 5 hours maximum
- 2. Cannon Game
 - a. 3 officers
 - b. 5 hours maximum
- 3. Prom and after Prom
 - a. 1 officer
 - b. 8 hours maximum
- 4. Homecoming Dance
 - a. 1 officer
 - b. 8 hours maximum
- 5. Graduation
 - a. 1 officer
 - b. 5 hours maximum

East High School

- 1. Cannon Bash – event held night before bell game where community, parents, students attend
 - a. 1 officer
 - b. 5 hours maximum
- 2. Cannon Game
 - a. 3 officers
 - b. 5 hours maximum
- 3. Prom and after Prom
 - a. 1 officer
 - b. 8 hours maximum
- 4. Homecoming Dance
 - a. 1 officer
 - b. 8 hours maximum
- 5. Graduation
 - a. 1 officer
 - b. 5 hours maximum

The five (5) middle schools generally require the following, however middle school principals have the flexibility of scheduling up to a maximum of any five (5) after school activities. Those five (5) scheduled activities **must be scheduled with the School Resource Officer Program Sergeant no later than 30 days prior to the event in which a Police Officer is requested.** Under no circumstances will the PPD provide Police Officer services for more than the five (5) after school activities that are detailed. If the District desires more PPD Police Officer services, than those detailed in this attachment, they may obtain those services by paying the extra duty rate for Police Officers, which is currently \$95.77 per hour, per officer.

Corwin Middle School

1. Open house for new students, parents, community
 - a. 1 officer
 - b. 2 hours
2. 8th Grade Graduation/Continuum
 - a. 1 officer
 - b. 2 hours
3. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
4. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
5. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours

Paragon Learning Center

1. Open house for new students, parents, community
 - a. 1 officer
 - b. 2 hours
2. 8th Grade Graduation/Continuum
 - a. 1 officer
 - b. 2 hours
3. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
4. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
5. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours

Heaton Middle School

1. Open house for new students, parents, community
 - a. 1 officer
 - b. 2 hours
2. 8th Grade Graduation/Continuum
 - a. 1 officer
 - b. 2 hours
3. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
4. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
5. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours

Pueblo Academy of Arts

1. Open house for new students, parents, community
 - a. 1 officer
 - b. 2 hours
2. 8th Grade Graduation/Continuum
 - a. 1 officer
 - b. 2 hours
3. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
4. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
5. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours

Risley Middle School

1. Open house for new students, parents, community
 - a. 1 officer
 - b. 2 hours
2. 8th Grade Graduation/Continuum
 - a. 1 officer
 - b. 2 hours
3. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
4. Carnival, Sporting Event or other similar after school activity

- a. 1 officer
 - b. 2 hours
- 5. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours

Roncalli Middle School

- 1. Open house for new students, parents, community
 - a. 1 officer
 - b. 2 hours
- 2. 8th Grade Graduation/Continuum
 - a. 1 officer
 - b. 2 hours
- 3. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
- 4. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours
- 5. Carnival, Sporting Event or other similar after school activity
 - a. 1 officer
 - b. 2 hours

End of attachment.



**Background Paper for Proposed Ordinance
of the Pueblo Street Repair Utility Enterprise**

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council
VIA: Marisa Stoller, City Clerk
FROM: Mayor Nicholas A. Gradisar
SUBJECT: An Ordinance suspending the payment of the monthly street repair utility service charges for twelve consecutive months beginning with each utility customer's January, 2023 utility bill

SUMMARY:

This proposed Ordinance suspends the payment of monthly street repair utility service charges for 12 consecutive months, beginning with each utility customer's January, 2023 utility bill.

PREVIOUS COUNCIL ACTION:

The Pueblo Street Repair Utility Enterprise ("Enterprise") was created on December 26, 2017 by Ordinance No. 9217. On May 14, 2018, by Ordinance No. 9278, the City entered into an intergovernmental agreement with the Board of Water Works regarding the billing and collection of the Enterprise's monthly service fees. On October 9, 2018, by Ordinance No. 9353, Council set the Enterprise's initial monthly service fees which went into effect February 1, 2019. On August 26, 2019, by Ordinance No. 9534, City Council established the current street repair fees which went into effect on October 1, 2019.

On November 22, 2021, by Ordinance No. 10046, City Council suspended the payment of monthly street repair utility service charges for 12 consecutive months, beginning with each utility customer's January, 2022 utility bill.

BACKGROUND:

Section 12-11-6 Pueblo's Municipal Code authorizes City Council, as the *ex officio* governing board of the Enterprise, to establish monthly street repair utility service charges. This proposed Ordinance suspends payment of the Enterprise's monthly service fees for 12 consecutive months.

FINANCIAL IMPLICATIONS:

The suspension of the payment of utility fees would result in a projected loss of revenue for the Enterprise of approximately \$2.8 million in 2023.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

A no-action alternative would cause the Enterprise's street repair rates to be automatically reinstated beginning with each utility customer's January, 2022 utility bill.

RECOMMENDATION:

Approval of this Ordinance.

Attachments: Proposed Ordinance.

ORDINANCE NO. SRUE-001

AN ORDINANCE SUSPENDING THE PAYMENT OF THE MONTHLY STREET REPAIR UTILITY SERVICE CHARGES FOR TWELVE CONSECUTIVE MONTHS BEGINNING WITH EACH UTILITY CUSTOMER'S JANUARY, 2023 UTILITY BILL

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The payment of monthly street repair utility service charges to the City of Pueblo's Street Repair Utility Enterprise shall be and hereby are suspended for 12 consecutive months, beginning with each utility customer's January, 2023 utility bill.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

Action by Street Repair Utility Enterprise:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by Street Repair Utility Enterprise on November 28, 2022.



Board President

Action by the Mayor:

- ☒ Approved on December 5, 2022.
- ☐ Disapproved on _____ based on the following objections:

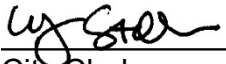

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

Board President

ATTEST


City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 14, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE MAKING APPROPRIATION FOR THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS, AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2023 AND ADOPTING THE BUDGET FOR THE YEAR 2023

SUMMARY:

The City charter requires that the City Council, through the adoption of the budget, approve all City expenditures. The annual budget sets forth a plan for the 2023 expenditures. Provided in this Ordinance is the Mayor's recommended budget.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

This budget as originally presented to the City Council and the citizens of Pueblo on October 11, 2022, set forth a plan whereby the City will expend all anticipated general fund revenues and an additional \$16,109,859 of funds from reserves. Based on Council recommendations, changes were made, and the budget now includes the use of \$16,851,009 of additional funds from reserves, for the operations of the City for the year 2023. The Council designated minimum reserve will be equal to 12% of the annual General Fund expenditures and transfers out for the fiscal year 2023. The budget document includes total spending from the General Fund in the amount of \$134,224,322, requiring \$16,851,009 from reserves in order to provide safe and reliable services for the benefit of the citizens of the City of Pueblo.

FINANCIAL IMPLICATIONS:

See background.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

The recommended budget has been available on the City's web site, as well as at the Rawlings library location since October 11, 2022. In addition, per the requirements of Section 7-9 of the Charter for the City of Pueblo, a public hearing was held in the Council Chambers during the regular meeting of the City Council on October 24, 2022.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10348

AN ORDINANCE MAKING APPROPRIATION FOR THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS, AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2023 AND ADOPTING THE BUDGET FOR THE YEAR 2023

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The budget for the fiscal year 2023, as proposed by the Mayor and as amended by the City Council, the original of which is on file with the Director of Finance, is incorporated herein in full, and hereby approved and adopted.

SECTION 2.

The General Fund Revenue for Fiscal Year 2023 is hereby estimated, and the General Fund Appropriation by Department for Fiscal Year 2023 is hereby made as follows:

REVENUE BY SOURCE	AMOUNT	APPROPRIATION DEPARTMENT	BYAMOUNT
Taxes	102,092,312	General Government	17,081,404
Licenses & Permits	999,700	Police	34,924,051
Intergovernmental	3,349,020	Fire	23,448,512
Charges for Service	4,804,841	Public Works	10,041,636
Fines & Forfeits	1,536,300	Parks	7,654,643
Other Revenue	694,695	Non-Departmental	8,499,777
Transfers In	3,896,445	Transfers Out	32,585,549
Fund Balance Reserves	16,862,259		
General Fund Total	134,235,572	General Fund Total	134,235,572

SECTION 3.

Revenue is hereby estimated, and appropriations hereby made for the Fiscal Year 2023 for all other Funds of the City of Pueblo as follows:

OTHER FUNDS	REVENUE	APPROPRIATION
INTERGOVERNMENTAL	6,698,469	6,698,469
SPECIAL CHARGES	5,672,247	5,672,247
SPECIAL DISTRICT	668,542	668,542
OTHER SPECIAL REVENUE	355,507	355,507
HUD GRANTS	2,662,150	2,662,150
STIMULUS GRANTS	29,200	29,200
PUBLIC IMPROVEMENTS	22,855,402	22,855,402
DEBT SERVICE FUND	3,569,319	3,569,319
ECONOMIC DEVELOPMENT TAX	14,511,642	14,511,642
POLICE SAFETY TAX	7,537,817	7,537,817
ELMWOOD GOLF COURSE	1,777,351	1,777,351
WALKINGSTICK GOLF COURSE	1,422,294	1,422,294
HONOR FARM PROPERTIES	134,898	134,898
MEMORIAL HALL	1,754,829	1,754,829
MEMORIAL AIRPORT	2,319,989	2,319,989
PUEBLO TRANSIT	6,305,936	6,305,936
PARKING FACILITIES	797,180	797,180
WASTEWATER ENTERPRISE	30,505,697	30,505,697
STORMWATER UTILITY	6,389,608	6,389,608
INTERNAL SERVICE FUNDS	19,731,096	19,731,096

SECTION 4.

On November 3, 2020, the electors of the City of Pueblo, Colorado enacted Ordinance No. 9764, providing for a one-half cent sale and use tax rate increase for a five-year period ending on December 31, 2026, and pledging the revenue therefrom for job creating capital improvement projects. The anticipated revenue from this tax rate increase and the investment income thereon, for the Fiscal Year 2021 is \$14,511,642 and the full amount thereof, plus any amount available in the fund balance, is hereby appropriated for projects to be determined by the Mayor and City Council.

SECTION 5.

It is the policy of the City Council to accumulate and maintain a General Fund reserve. Effective with the adoption of the FY 2023 budget, this reserve amount will be equal to 12% of the annual General Fund expenditures and transfers out.

SECTION 6.

Authorized staff positions within all departments of the City, as well as the salaries, therefore, are approved and adopted by separate Ordinances. All information pertaining to staffing and salary included in the budget document incorporated herein is solely for the purpose of providing additional information to the user of the document.

SECTION 7.

Pursuant to Section 7-12 and 7-13 of the Charter of the City of Pueblo, the Mayor is hereby authorized to maintain budgetary control over approved allotments within each department by classification of expenditure category, rather than line item.

SECTION 8.

The officers and the staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 9.

No expenditures shall be made, or warrants issued against any monies appropriated, except in strict conformity with the Charter of the City of Pueblo and in accordance with the provisions of this Ordinance.

SECTION 10.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on November 14, 2022.

Final adoption of Ordinance by City Council on November 28, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 5, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

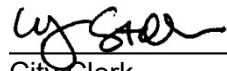
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk